

**THE SOCIAL CONTRACT
AND THE ISLĀMIC STATE**

THE SOCIAL CONTRACT · AND THE ISLAMIC STATE

By

ILYAS AHMAD, M. A.,

*Lecturer, Department of Civics and Politics,
Allahabad University.*

*Sometime Research Fellow and a Member of the Staff
of the Department of Political Science,
Lucknow University.*

**KITAB BHAVAN
NEW DELHI-110002.**

**Published by
Nusrat Ali Nasri, for Kitab Bhavan,
1214, Kalan Mahal, Darya Ganj,
New Delhi-110002.**

**Printed in India at,
Print Times,
Pataudi House, Darya Ganj,
New Delhi-110002.**

TO MY WIFE

PREFACE

It was in 1927 that Dr. V. S. Ram, M. A., Ph. D., (at that time Head of the Department of Political Science, Lucknow University, now Secretary, Indian Institute of International Affairs, New Delhi) advised me to commence research work in Islāmic Political Philosophy, and for some months, before my appointment in the Allahabad University, I did work under him as a Research Fellow. I continued this work in Allahabad also but had to discontinue it many a time because of grave personal and domestic troubles. Yet the conclusions which I had already drawn were never forgotten by me. In fact, my continuous teaching of Political Philosophy convinced me that the 'theory of contract' was not a mere fiction, and that the Islāmic State was based on a 'real contract'. The present work, therefore, is the result of this conviction which I have held for so many years.

This book, apparently it seems, is a mere study of the Social Contract Theory. In fact, however, it is something more. It sets forth, in outline of course, the *First Principles of the Islamic State*. As there is no suitable book which deals with the fundamental ideas that lie at the base of the Islāmic social and political structure, it is hoped, this little book will meet a hard felt want of students, teachers and the general readers alike.

It is always an author's pleasure to acknowledge in the Preface the debt of gratitude that he owes to

his teachers, colleagues and friends. I must, therefore, first of all acknowledge my debt to Dr. Ram for having directed me to a work which has been of immense interest to me. Then, I thank Dr. Beni Prashad, M. A., Ph. D., D. Sc., Professor and Head of the Department of Politics in the Allahabad University also not only for having published the first three chapters of this work in the Indian Journal of Political Science as its Chief Editor, but for having granted me permission to reproduce those articles in this book. My grateful thanks are also due to M. Naimur Rahman, M. A., of the Arabic and Persian Department, Allahabad University, and to Professor Muhammad Habib, B. A., (Oxon), Bar-at-Law, Head of the Department of History and Politics, Muslim University, Aligarh. The former helped me in various ways by going through the whole manuscript and saving me from several errors of omission and commission and by insisting on the necessity of diacritical marks. The latter not only encouraged me, he emboldened me to get this book published for discussion and criticism. I am also indebted to Mr. Muhi-Uddin Ahmad, P. C. S., who, after he had passed his M. A. in Politics, helped me with great willingness and steadiness in writing out a fair part of the manuscript. I am also obliged to Mr. Riaz Ahmad Quraishi, M. A., LL.B., for having not only read the proofs in spite of considerable inconvenience to him, but also for having prepared the Index. In the end, I should also not forget to say

a word of obligation to my younger brother, Mr. Ovais Ahmad Adib, M. A., Lecturer Halim Muslim College, Cawnpore, for having typed out the manuscript at a time when he was busy in his own research work, and to my eldest son Halim Ahmad who has helped me in a variety of ways in the publication of this book.

ALLAHABAD,
June 15, 1944. }

ILYAS AHMAD

CONTENTS

Chap.		Page.
	Preface	... i—iii
I.	A Brief History Of The Social Contract Theory...	... 1— 20
II.	The State Of Nature In Arabia and The Laws Of Islam	... 21— 66
III.	The Social Contract In Islam	... 67—101
IV.	The Civil Society In Islam	... 102—118
V.	The National Contract In Islam And The Establishment Of The First Country State	... 119—134
VI.	The Foundations Of The Islamic State And Rousseau	... 135—179
VII.	Epilogue : The Truths In The Islamic Contracts	... 180—190
	Index	... 191—203

CHAPTER I

A BRIEF HISTORY OF THE SOCIAL CONTRACT THEORY

The Judgment of History is against Contract

Is the Social Contract theory wholly unhistorical ? Is it a pure fiction ? Is it wholly unreal and imaginary ? These questions are always answered in the affirmative and no one has yet said 'no' to their answers. The whole thing is more astounding because it has been declared that the Social Contract theory is as old as speculation itself. It has, therefore, its own *history* without itself being *historical* in any sense. By historical here we mean that in the whole history of the political development of man we do not find even a *single case or instance* in which the 'social contract' might have been used in the origin or the making of the state. Hence it is the incontrovertible judgment of history that the Social Contract theory as an explanation of the origin of state is false because it has no validity in human experience and that it is a pure figment of man's imagination, and, therefore, it is nothing but an intellectual treat of the various thinkers who have found delight in its exposition. In the words of Kant, this theory as it has no basis in history, is a *mere idea of reason* and hence is more useful as a

2 THE SOCIAL CONTRACT AND THE ISLAMIC STATE

philosophical explanation of political obligation than as an explanation of the *actual* origin of the state.

Contract in Islam has been a reality

But if the study of history means the study of all countries except *Arabia*, this judgment of history may be correct, for in the history of that country we do find a fully applied case of Social Contract in all its essentials—the State of Nature, the Laws or the Light of Nature, the Social Contract and the Civil Society. By this I mean, that a study of the *origins* of the Islāmic State will at once make it clear that the Islāmic State was founded on Contract, and that contract (in varying respects) always remained the basis of the Islāmic political structure. Even when the democracy of Islām had become a monarchy, the institution of 'bai'at' (contract) remained and now, even though there may not be an Islāmic State as in India, the institution of 'bai'at' or contract continues in the religious life of the Islāmic peoples. This can be seen throughout India wherever a religious saint (Pir) has his disciples or followers (Murid) who contract with the 'Pir' for obedience to his directions regarding the living of his life in the true Islāmic way. Besides this, the marriage ceremony in Islām is still a contract and will always remain a contract. In brief, the idea and practice of contract has been the corner-stone of Islāmic political edifice in the beginning and to this

day it remains a feature of Islāmic social and religious life. The Contract, therefore, has been a *reality* with Islām and not a mere theory as it has been in the general history of mankind.

The development of the Social Contract Theory

But before I take up the origin of the Islāmic state, it is desirable that a brief development of the theory of Social Contract be traced upto Hobbes, Locke and Rousseau for it was in their hands that the theory received its most exhaustive and classical statement. In this account, we will also try to see if these writers in any way considered their theories as historical.

In Greece

Political thinking in a systematic way begins with Greece, and in Ancient Greece we find the theory of Contract used in a rudimentary form. The state and its institutions were regarded as conventional and there was an antithesis between 'nature' and 'convention.'

(a) Socrates

Even Socrates is said to have said that he could not have come out of the prison because he had made an *agreement* with the 'laws.' Hence he was

4 THE SOCIAL CONTRACT AND THE ISLAMIC STATE

bound to *obey* them rather than *break* them. Thus in Crito¹ we find him using the following arguments on the idea of escaping from prison :

Socrates :—

'Suppose the laws and the commonwealth were to come and appear to me as I was preparing to run away and were to ask 'Tell us, Socrates, what, have you in your mind to do? What do you mean by trying to escape but to destroy us, the Laws, and the whole city, so far as in you lies? Do you think that a state can exist and not be overthrown, in which the decisions of Law are of no force, and are disregarded and set at naught by private individuals?'

'Was that our agreement or was it that you would submit to whatever judgments the state should pronounce?'

'And, we say, he who disobeys us, does a threefold wrong ; he disobeys us who are his parents, and he disobeys us who fostered him, and he disobeys us *after he has agreed to obey us*, without persuading us that we are wrong. You do not respect the Laws, for you are trying to destroy us : and you are acting just as a miserable slave would act, trying to run

¹ *The Trial and Death of Socrates* by F. G. Church.
(Macmillan, London, 1923.)

away, and *breaking the covenant and agreement* which you made to submit to our government.' 'Consider: what good will you do yourself or your friends by thus transgressing and *breaking your agreement*.'

(b) Plato and Aristotle

Plato and Aristotle also refer to this conventional basis of society only to criticise it for the latter especially holds that the state is the result of natural evolution rather than of mechanical construction. In the words of Willoughby : "Aristotle in his Politics speaks of the Sophist Lycophron as having placed civil law, and therefore political authority, upon a basis of agreement, but it is in the doctrines of Glaucon in the fourth century, as reported in Plato's Republic that we find the compact theory stated and argued, though without distinguishing between a social and a governmental contract. Men, finding a non-political state to be intolerable, and moved by fear of each other, it was argued, make a contract to do justice to each other, and agree upon laws, which they mutually accept as binding upon themselves, and as defining what actions shall be regarded as right or wrong. It was to refute such an arbitrary or conventional basis of social and political obligation as this, as well as the other individualistic doctrines of Sophists, as, for example, the force theory of Thrasymachus...that Plato wrote his

Republic ; and the same purpose, though perhaps not so predominant, is found in Aristotle's Politics and Ethics."²

(c) The Stoics and Epicureans

After Aristotle, the Stoics and the Epicureans again returned to the anti-thesis of 'convention' and 'nature' and they began to treat Law as a contract and the State as conventional. To them, man came to be guided by Laws of Nature which were universal laws of reason and hence the world itself was a natural association governed by the Laws of Nature.

In Rome

In Roman times also, men like Cicero kept up the Greek tradition of opposition of 'convention' and 'nature' and he speaks of natural Law, natural equality and natural society. Then the Roman lawyers take up Natural Laws as the source of right reason and men like Ulpian speak of natural liberty and natural equality by the Laws of Nature. The result of the application of Natural Law came to be that not only was the Civil Law to be based on these laws of right reason but also the Laws of Nations were refined and made applicable to all citizens—Romans, Italians and

2. *The Ethical Basis of Political Authority* by W. W. Willoughby, (Macmillan, 1930.)

foreigners alike—and hence they came to be universal Laws.

In the Old Testament

Besides these Greek and Roman ideas we find the idea of 'covenant' even in the religious books of early peoples. Thus in the Old Testament there is a frequent reference to the 'Covenant of God' with the Jews or of Kings with the people and Vaughan maintains that it is an 'undoubted fact that the origin of the Jewish State is there (in the Old Testament) traced to a covenant or contract, between the chosen people and God,'³ For example we have :

"So all the elders of Israel came to the King in Hebron : and King David made a *Covenant* with them in Hebron before the Lord ; and they anointed David King over Israel."⁴ Even Hobbes mentions God speaking to Abraham and (Gen. 17. 7, 8) to make a Covenant with him in these words "I will establish my covenant between Me and thee, and thy seed after thee in their generations, for an everlasting Covenant, to be a God to thee, and to thy seed after thee ; And I will give unto thee and to thy seed after thee the land wherein thou art a stranger, all the land of Canaan

3. *Studies in the History of Political Philosophy* by C. Vaughan (1939), Vol. I, p. 12.

4. Samuel. II, v. 3.

8 THE SOCIAL CONTRACT AND THE ISLAMIC STATE

for an everlasting possession."⁵ Even the Holy Qur'ān, in its own way bears testimony to such contracts between God and people in Hebrew times. Thus we find, 'and when We made a Covenant with the children of Israel : you shall not serve any but Allah and (you shall do) good to (your) parents, and the near of kin, and to the orphans and the needy, and you shall speak to men good words and keep up prayer and pay the poor rate. Then you turned back except a few of you and (now too) you turn aside."⁶

In the Middle Ages

With the coming of Christianity also the idea of the Covenant did not die out for the New Testament⁷ itself was a covenant with God (and even Hobbes speaks of the New Covenant by Baptism).⁸

The Holy Qur'ān also affirms such a covenant between God and Christians in these words : 'And with

5. Hobbes : *Leviathan* (Everyman's Library) p. 219.

6. 'The Holy 'Qur'ān' by M. Muhammad 'Ali, p. 44.

7. In fact according to Christian belief the Old Testament is Old Covenant and the New Testament is New Covenant. When sprinkling the people with the blood of animals, Moses is reported to have said , "This is the blood of the covenant which the Lord hath made with you concerning all these words." Thus the Old Covenant or Testament was consecrated by the sprinkling of the blood of animals, so the New Testament was ratified and sealed by the blood of the Son of God, who said, "This is my blood, of the New Testament."

8. *Leviathan* (E. L.), p. 220.

those who say we are Christians, We made a Covenant, but they neglected a portion of what they were reminded of, therefore, We excited among them enmity and hatred to the day of resurrection, and Allah will inform them of what they did'.⁹

Feudalism

However in the Middle Ages the idea of Contract remained alive and associated with the institutions of Feudalism. Thus says Sir Henry Maine :

"The earliest feudal communities were neither bound together by mere sentiment nor recruited by a fiction. The tie which united them was a Contract, and they obtained new associates by contracting with them. The relation of the Lord to the Vassals had originally been settled by express engagements and a person wishing to engraft himself in the brotherhood by *commendation or infeudation* came to a distinct understanding as to the conditions on which he was to be admitted. It is therefore the sphere occupied in them by Contract which principally distinguishes the feudal institutions from the unadulterated usages of primitive races. The Lord had many of the characteristics of a patriarchal chieftain, but his prerogative was limited by a variety of settled

9. The Holy Qur'ān by M. Muhammad 'Alī p. 256.

customs traceable to the express conditions which had been agreed upon when the infeudation took place."¹⁰

In fact *it is the general opinion of modern writers that the Social Contract theory as we find it is the legacy of the Middle Ages*¹¹ for "no doubt, the mutual obligations of feudal overlords and their vassals, freely undertaken by both parties, freely renewed by generation after generation, and (at any rate legally speaking) as freely open to renunciation, prepared the way for the idea that the relation between rulers and their subjects was in its essentials a contract of Societies."¹²

The Theory of the Limited Monarchy of the Church Fathers.

Already, the distinction between the King and the tyrant had been stated by men like Plato and Aristotle and even the Church Fathers had been speaking of the powers that be and the powers that ought to be. St. Isidore had distinguished the King from the tyrant by one feature—the limitation of Law, for the latter

10. Sir Henry Maine: *Ancient Law*, p. 324 (London, John Murray, 1905.)

11. See Lord: *Principles of Politics*, p. 47—"As it was, they (the modern writers) were but employing a conception which was mainly the product of the Middle Ages". Also Rousseau's *Social Contract* by Cole (Everyman's Library), p. VIII, where in his introduction he calls it 'a traditional theory rooted in the Middle Ages.'

12 Ibid, p. 48.

had no limitations. Even St. Augustine in the 9th century spoke of the King as bound by the Law and John of Salisbury had even justified tyrannicide if the king violated the law. Thus in the 13th century *a theory of Monarchy as limited by the Law* was already prevalent and this is typified by the 'Song of Lewes'¹³ the writer of which, a Franciscan Friar, maintained the following points in support of Simon De Montfort against Henry III :—

- (i) "He has never heard that *rex* is *lex*; but he holds that it must be common and true that *lex* is *rex*."
- (ii) If the king be thus under the Law, he must rule for the common weal.
- (iii) In limitation by law there is true liberty ; and 'to force a King to be free,' a people may have to resist him when he becomes a slave to passion and tyranny.
- (iv) But lawful resistance may be adopted in extremes ; in normal times parliamentary institutions will result in the good of the people.

Pactum in Manegold and St. Thomas Aquinas.

This theory of limited monarchy was at once taken up by the protogonists¹⁴ of the claims of the Pope as

¹³ The whole of this paragraph is based upon 'The Political Thought of Plato and Aristotle' by E. Barker (1906). pp 501—03.

¹⁴ Ibid, pp. 506—507.

against the Emperor and hence Manegold 'made great play with this weapon'—the rights of the people and said :—

"The people exalts one man that he may govern, and rule men justly. If he *breaks the contract* (*Pactum*) under which he was chosen, the people are free from the duty of submission, since he has first failed to keep faith." Then St. Thomas Aquinas also takes up the same idea in his *De Reginime Principum* and the monarch is both instituted and limited by the commonalty. "If it pertains to the right of 'a' commonalty to institute a king, the king whom it has instituted may without injustice be destroyed or his power may be limited, by the community, if he uses his royal power tyrannically," and a king turned tyrant "does not deserve that the *pact* should be kept by his subjects."

The Anti-Monarchs

At the beginning of the modern period, therefore, when the tussle between the king and the people became acute, this same doctrine of the peoples' right as issuing in a *pactum* was continued and the so-called Anti-Monarchs (or Monarchomachs) only followed this very tradition of the Middle Ages. If the kings justified their authority on the basis of the Divine

Right of Kings, the subjects began to claim ultimate power on the basis of the Divine Right of Peoples.¹⁵

Three Stages of the Contract Theory

But as yet a *full fledged* doctrine of Social Contract with the State of Nature and its corollaries the Natural Rights and the Laws of Nature, the Contract itself and the resulting Civil Society was not yet set forth by any writer in the whole history of political speculation. In the ancient period of Greece and Rome (and even of Judaism) which may be said to be *the first stage of* the Social Contract theory the only purpose of writers was to emphasize the *anti-thesis between the 'natural' and the 'conventional'* and the natural was interpreted to include ideal principles of human conduct and guidance. *In the second stage* which may be said to include the Middle Ages and the early Modern Age, the Contract is used to indicate the *antithesis of authority and liberty*—of kings and subjects. But *in the third stage* which ushers in with Hobbes, Locke and Rousseau it becomes *both a fact and an idea of reason* for a systematic study both of *the origin of the state*

15 See Figgis: *Divine Right of Kings*. To all these writers such as Milton, Mariana, Buchanan and Althusius the people meant the 'governed part of the state' minus the ruler. Thus liberty and authority could not be reconciled and there was continuous antagonism between the *Governor and the Governed*. See Merriam: *History of the Theory of Sovereignty*, pp. 20—21. See also Vaughan: *Du Contrat Social*. Longman's (Modern Language Texts), 1918 p. Lv

and of the first principles of political philosophy. It is true that as an 'idea' the theory as used by these three writers has been called, a fiction, or to be more explicit, *a plastic fiction*, but it is equally true that the writers themselves, *in some sense*, believed in the *reality* of the State of Nature as they were describing it.

Hobbes

Thus says Hobbes "It may peradventure be thought, there was never such a time, nor, condition of war as this ; and I believe it was never generally so, all over the world ; but there are many places, where they live so now. For the savage people in many places of *America*, except the government of Small Families, the concord whereof dependeth on natural lust, *have no government at all ; and live at this day in that brutish manner, as I said before.* Howsoever, it may be perceived what manner of life there would be, where there were no common Power to fear ; by the manner of life, which men that have formerly lived under a peaceful government, use to degenerate into, in a Civil War."¹⁶

Locke

Similarly, Locke also believes in the reality of his

16. Hobbes : *Leviathan* (Everyman's Library), Ch. 13, p. 65.

State of Nature and tries to meet the objection that his account of the state of nature is unhistorical under the following points which I summarize from his long argument.¹⁷

1. Government and Society every where are antecedent to records and letters come to a people after a long continuation of Civil Society. It is only then that Commonwealths, like particular persons, begin to look into the history of their founders and then catch hold of accidental records that others might have kept of it. This shows that if the early history of peoples is not *recorded*, they had no life before the beginning of such records. Similary, *the State of Nature is true even though recorded history might be silent about the earliest life of man*

2. Even the beginning of Rome and Venice was made by 'the uniting together of several men, free and independent of one another, amongst whom there was no natural superiority or subjection.'

3. If Josephus Acosta's words may be taken, he tells us that "in many parts of *America* there was no government at all," and then Locke cites the instances of *Peru* and *Brazil* and concludes 'that their political societies all began from a voluntary union, and the mutual agreement of men freely acting in the choice of their governors and forms of government.' He

17. Locke: *Of Civil Government* (Everyman's Library)
Paragraphs 100, 101, 102 and 103, pp. 166—168.

further cites the case of *Sparta* and then remarks that 'thus I have given several examples out of history of people, free and in the State of Nature that, being met together, incorporated and began a Commonwealth.'

Rousseau

Similarly, Rousseau also gives an account of the State of Nature in such a way as if the gradual development of man from the simple to the complex life was one of gradual *historical* evolution—beginning of course with pure savagery, and then passing through the stages of the increase of population, the coming of agriculture, the enclosing of land and finally the advent of all inequalities and privileges resulting in enslavement of the natural man.¹⁸

Vaughan's Criticism

Besides this idea of the writers themselves who believed in the *reality* of their accounts, the critics also have taken pains to consider if these accounts were really real and historical. Thus Vaughan says 'The idea of a State of Nature has been a source of much merriment to historical rigorists. But much of their ridicule has been strangely beside the mark. The assumption that a State of Nature—that is, a state without either settled society or government ever existed has, of course,

18. Rousseau: *A Dissertation on the Origin and Foundation of the inequality of mankind* (both parts).

no historical foundation. It cannot be disproved but neither can it be proved and the burden of proof is evidently thrown upon those who go bail for its reality. That, however, is not enough to bear out its use *for the mere purposes of the argument*. And in so far as the idea of a State of Nature has been employed to indicate not a historical reality, but *the logical opposite to any recorded or conceivable form of the civil state*, in so far as it stands not for a historical fact but purely *for a speculative hypothesis*, it is obvious that all criticism based upon historical grounds is entirely off the point. Even if it were far more certain than it is that a State of Nature never existed in fact, the philosopher would still be entitled to use the idea for the sake of defining more exactly, *by means of contraries*, what is the true nature of Civil Society."¹⁹

Vaughan on the State of Nature in Spinoza & Rousseau.

He further goes on and says, "No doubt, most, if not all, of those who professed to speak of the State of Nature as a *pure hypothesis* were at least, half inclined to believe that it was also a historical reality ... We may indeed have other grounds for supposing that a given writer did, in fact, believe in the historical reality of a State of Nature. But, if this belief has

19. C E Vaughan: *Studies in the History of Political Philosophy*, Vol. 1. pp. 27-28.

no effect upon the subsequent march of his argument ; if, on a fair examination, it can be shown that he does in truth employ the idea for *purely speculative purposes* ; then the error is of no practical importance. It is by his argument that he must be judged, and by that alone—(thus) Spinoza and Rousseau, for instance, both believed, it is probable, in the reality of the State of Nature. But it would be hard to show that the general tenor of their argument is, in the smallest degree, affected by the fact. Strike off in each case, the first link of the theory, and the rest of the chain remains unshaken and untouched.... In neither case is the State of Nature more than a picturesque frontispiece.²⁰

Vaughan on the State of Nature in Locke

Then Vaughan further goes on to say that in the case of Locke, however, the whole of his theory *depends absolutely upon* the assumption that the State of Nature is *taken from life*—that it must '*have been a historical reality.*' This is because his conception of Natural Law 'is a code accepted by the conscience of all men in the State of Nature and providing a sanction for the contract by which that state was eventually swept away to make room for the civil state.' In fact it serves a triple purpose :—

20. Vaughan, Vol. I, pp. 28—29.

1. It accounts for the continuance of the State of Nature.
2. It furnishes the sanction for the Contract.
3. It provides a standard by which the positive laws of the Civil Society may be judged or on the mode of which they may be reformed.

Vaughan on the State of Nature in Hobbes

More than Locke, Vaughan then emphatically asserts, is the State of Nature a reality to Hobbes? Thus he says, 'If there is one writer above all others who pins his faith to the reality of the State of Nature, to the authenticity of the facts which he records about it, it is the author of the Leviathan.... There is no other writer who is so deeply committed to the *historical reality* of that assumption ; no other writer, according to whom the obvious impossibility of proving it is so fatal.'²¹

Several Instances of Contract in History

Thus from this account of the brief history and criticism of the Social Contract theory it is clear that the writers themselves have tried to justify the State

21 Vaughan, Vol. I, pp. 29—50.

Besides Vaughan, Nevinson also in his 'The Growth of Freedom' asserts 'I have taken Hobbes because among the philosophers he seems the most nearly historic in his theory'—Page 16 (Footnote). On the whole, he is also inclined to hold, that the conception of the Contract 'was mainly an *imaginary hypothesis*'.

of Nature and the Contract as a historical reality and have tried to cite instances from Greece, Rome and even America (Peru and Brazil), but the critics maintain that it was a mere imaginary hypothesis and that neither the State of Nature nor the Contract have been confirmed by history. The only solitary instance usually cited in history is that of the boat '*May Flower*' when in 1620 the persecuted English emigrants on their way to America agreed among themselves as follows: "We do solemnly and mutually in the presence of God and one another, *covenant and combine ourselves together into a Civil body politic* for our better ordering and preservation." But even if this be taken as a real Contract for the creation of the state (for the element of territory is lacking) we have no State of Nature and the men too were not primitive human beings but rather were those who had already been civilised members of civil societies. Similarly, sometimes cases of such contracts are cited from instances of the making of constitutions in the states of Hampshire, California and Massachussettes in America but there too the objection remains that the individuals that took part had already been members of civilized society and governments.

CHAPTER II

THE STATE OF NATURE IN ARABIA AND THE LAWS OF ISLĀM

Contract in the Origin of the Islamic State

We will now take up the origin of the Islāmic State and will try to show how the period before Islām was the age of ignorance (a State of Nature), how the Laws of Islām were the (Divine) Laws of Nature; how the whole period of the life of the Prophet of Islām was a *period or age of Contracts*, and how the Islāmic State itself was founded on 'contract' and how the real civil society was instituted in that land of darkness and barbarism.

The Age of Ignorance

What political philosophers have termed the State of Nature, Arab historians have called the Age of Ignorance or 'Ahd-i-Jāhliyat in Arabia. In the words of Vaughan 'to talk of the Origin of Civil Society' is, strictly speaking, to imply that it sprang from a state of things which was not 'civil', and that is the very definition of the 'State of Nature.'¹

1. Vaughan, Vol. 1 p. 28

1. The Political Condition

Before the advent of Prophet Muhammad (Peace be on him!) Arabia was in no sense a nation as we understand it. It never had one government that might have united the different tribes into one people and *tribal individuality* was the core of their political existence. Beyond the tribe everything was foreign to the Arab mind and every tribe was the enemy of the other and blood vengeance was sought for in every case. Gibbon, in his *Decline and Fall of the Roman Empire*, thus draws the picture of the political and social life of the Arabs :—“The temper of a people, thus armed against mankind, was doubly inflamed by the domestic licence of rapine, murder, and revenge . . . each Arab with impunity and renown, *might point his javelin against the life of his countrymen*. Of the time of ignorance which preceded Mahomet, *seventeen hundred battles* are recorded by tradition ; hostility was embittered with the rancour of civil factions ; and the recital, in prose or verse, of an obsolete feud was sufficient to rekindle the same passion among the descendants of the hostile tribes. In private life, *every man*, at least, every family *was the judge and avenger of its own cause.*² Thus there was no sense of any unity whatever among the Arabs and Arabia itself was only a mere

2. Gibbon: *Decline and Fall of Roman Empire* (Bury's Edition, Vol VI, p. 323 (The Italics are mine)

geographical expression. "Since times immemorial" writes Dr. Hell, "the struggle for existence in Arabia had centered round water and pasturage. These struggles destroyed the sense of national unity and developed an incurable particularism, each tribe deeming itself self-sufficient and regarding the rest as its legitimate victims for *murder, robbery and plunder*."³ He further adds "What the Arab lacked was the consciousness of national unity. For him there existed only the tribe and the family, but no Arab Nation. What he further lacked was a sense of subordination. The idea that subordination was necessary, even a virtue, was an idea absolutely foreign to him. True enough, the Arabs had tribal chiefs, and to those chiefs they even showed regard and respect, but no chief had the right to command, and no one the duty to obey."⁴ Gibbon also testifies to this aspect of their life when he says "in each community, the jurisdiction of the magistrate was mute and impotent."⁵ Similarly Wellhausen calls the Arabs 'a Community devoid of supreme authority and executive power,'⁶ and calls the Shaikh or Sayyid a 'mediator and peacemaker,'⁷ but

3. Dr Hell: *Arabian Civilization* Tr. by S. Khudā Bukhsh, p. 10,

4. *Ibid.*, p. 18,

5. Gibbon: *Decline & Fall of Roman Empire* (Bury's Edition) p. 333.

6. *The Historians' History of the World* by Henry Smith Williams, Vol. VIII. Article by Welhausen, p. 293.

7. *Ibid.*, p. 288.

having no supreme power. Thus politically, Arabia was in a state of complete anarchy of tribe *vs.* tribe, of clan *vs.* clan, and even of individual *vs.* individual for in the words of Noldeke, 'a murder or even a grievous injury may provoke long years of feuds between families closely akin and the passion of revenge for an Arab's slaughtered kin can lash him to furious blood thirstiness.'⁸ If blood were shed, it cried aloud for blood. Hence there could be no question of a real government authority.

The Arabs because of such temperament of insubordination naturally loved not only the independence of the tribe but also personal freedom, for when they did not recognize any authority they were *all free and equal*. Sir William Muir states that "the distinctive feature has ever been the independence of the tribe, the family and *individuals ... but no bond of permanent union holds them together*, and dissentients may secede at pleasure. With a code of honour bordering on jealousy, *personal hostilities, and tribal wars incessantly occur* and thus tribes often rise or fall, coalesce or become disintegrated, remain in their ancestral homes or migrate to distant lands."⁹ Thus, as Ibn Khaldūn points out, they would fight on trivial matters, *which fight would continue almost endlessly*. Massacres,

8. Historians' History of the world, Vol. VIII, Article by Noldeke, pp. 6-7.

9. Muir: *Life of Mahomet*: Introduction Ch. I, p IV.

loot, and destruction had thus become a normal feature of their life and this was because of the absence of any central authority in Arabia.¹⁰ It is to this abnormal state of affairs that the Holy Qur'an also bears testimony when it says, 'And remember the favour of Allah on you *when you were enemies*, then he united your hearts so by His favour you became brethren ; *and you were on the brink of a pit of fire*, then He saved you from it, thus does Allah make clear to you His communications that you may follow the right way.' (3 : 102). There was thus no magisterial authority, no sovereign power and the functions of the tribal life were *exercised by all its members equally*.¹¹ The tribe too, therefore, was not a community as we understand it : it was *an aggregate of human beings* and nothing more for, in the words of Wellhausen, '*of the amenities of family life we find no trace nor any trace of patriarchal guardianship. Each man has to give his help, if any thing is to be done.*'¹²

2. The Religious Condition

Besides this degeneration in political existence, we find similar anarchy and disruption in other walks of

10. Ibn Khaldūn: *History*, translated by H. Ahmad Husain an Urdū. Vol III, Part III, p. 2 (1911) Anwār Ahmādī Press, Allāhabād.

11. The Historians' History of the World, Vol VIII, pp 286.—87.

12. *Ibid* p. 293.

life. "The prospects of Arabia before the rise of Mahomet," writes Muir, "were as unfavourable to religious reform as to political union or national regeneration." In the words of Dr. Weil "in matters religious and political Arabia in the 6th Century was the theatre of the wildest confusion."¹³ The Arabs followed the religious customs of their ancestors out of mere respect for tradition and the Holy Qur'ān bears testimony in these words :—

"And when it is said to them, come to what Allah has revealed and to the Apostle, they say : That on which we found our fathers is sufficient for us." 5 : 104.

Noldeke also states about their conservatism thus : "The heathen Arabs possessed many holy places and many ceremonial rites, but very little earnest religious conviction. Excessively conservative by nature, the people observed the customs of their fore-fathers without troubling *their minds about their original significance*, offered sacrifices to the gods (rude stone fetishes for the most part), and marched in procession round their sanctuaries, without counting much upon their aid or standing in any great awe of them ; they cried to the dead, "Be not far from us,"

13. Dr. Weil: *History of Islamic Peoples* Tr. by S. Khudā Bukhsh, p. 1. Margolouth also in his *Mohammedanism* summarizes the evils of Ancient Arabia under three heads: (1) Theological (2) Social. (3) Offences against morality, pp. 47—55.

without associating with the cry the idea of a future life which alone gave it meaning.¹⁴ Thus the whole of Arabia clung fast to its idolatry, there being three hundred and sixty deities, one for each day of the year. Wellhausen calls them a 'rubbish heap of divine names.' They not only worshipped the idols, the sun, the moon, and the stars,¹⁵ but also the trees and animals and even such inanimate objects as Time and Fortune were the objects of their adoration and thanksgiving. In the words of Von Kremer 'All this was sham, counterfeit. Of real genuine religious feeling there was none.'¹⁶ It was, therefore, not only in political condition that we find a sort of political pluralism or particularism, in religion also, there was a state of pluralism. Polytheism was rampant every where and the (Divine) Laws of Nature which had been revealed with Abraham and successive prophets had been entirely relegated to oblivion. The custom and convention in the early Greek fashion was pitted against the natural or the divine. Even the influence of Judaism and Christianity could not bring any change in their religious outlook. In the words of Sir William Muir "After five centuries of Christian evangelisation, we can point to but a sprinkling here

14. The Historians' History of the World, Vol. VIII p. 9.

15. Ibn-Khalḍūn : p 2. Also, Dictionary of Islām, Article : Arabia, for worship of heavenly bodies.

16. Von Kremer : *Contributions to the History of Islamic Civilisation*, translated by S. Khudā Bukhsh, p. 166.

and there of Christian converts... Judaism, vastly more powerful, had exhibited a spasmodic effort of proselytism, but as an active converting agent, the Jewish faith was no longer operative. In fine, viewed thus in a religious aspect, the surface of Arabia had been now and then gently rippled by the feeble efforts of Christianity ; the sterner influences of Judaism had been occasionally visible in a deeper and more troubled current, but the tide of the indigenous idolatory and of Ismaelite superstitions, setting strongly from every quarter towards the Kaaba, gave ample evidence that the faith and worship of Macca held the Arab mind in a thraldom rigorous and undisputed."¹⁷ The faith of the so-called three daughters of God—Lāt, Manāt and 'Uzzā—was supreme throughout Central Arabia and in the words of Muir again “the fabric of Islam *no more necessarily grew out of the state of Arabia*, than a gorgeous texture grows from the slender meshes of silken filament.”¹⁸

The Hanifs

But while the whole of Arabia was thus sunk in abject idolatory and darkness, a few individual

17. Muir : *Introduction*, p. IX ; also Von Kremer : *Contributions to the History of Islamic Civilization* (Tr. by S Khudā Bukhsh). Von Kremer quotes Dozy to support the same View.

18. Also Noldeke confirms this view : The Historians' *History of the World*, Vol. VIII, p. 10; Arnold also in *Preaching of Islam* p. 42.

souls, dissatisfied with the religion of the idol, were trying to find out *the light of Allah*—the Divine laws of nature as typified by the religion of Abraham. They were the Hanifs¹⁹ and their view-point, as distinguished from the religion of the idolatrous Arabs has been called Hanifism. One of them, Zaid²⁰ thus composed and sang his poems :

1. Should I worship One God or thousands when even the duties of religion have been divided by the people.
2. I have forsaken Lāt and 'Uzzā and such is always done by a keen and patient man
3. And I do not worship 'Ghanām' though I regarded him my 'Rab' when I had little wisdom.
4. With Thee O God I am contented and I do not see, save Thee, any one whose religion I should adopt

3. The Social and Moral Condition

Besides this religious darkness and political

19. Ibn Khaldūn cites the names of four of them. (Vol. II Part III, p. 4), Khudā Bukhsh gives a bigger list in his *Essays "Indian and Islamic*. Out of the four noted by Ibn Khaldūn, three became Christians, only Zaid remained and he did not accept any religion.

20. Ibn Hishām quotes Zaid's poems. pp. 17—75 (Urdu Translation.)

anarchy, the social and moral life of the Arabs was also corrupt beyond imagination and Von Kremer summarizes this aspect of their life admirably when he says: "*Wine, women and war* were the only three objects which claimed the love and the devotion of the Arab."²¹ They had not even the decency and clean habits in eating and drinking and "ate snakes, scorpions and dead animals. In draught and famine they would inflict deadly wounds on the bodies of camels and would suck their blood.....Gambling was common, vice was virtue. Drink of every kind was highly cherished."²² Their sexual morality too was exceedingly low. "In old Arabia" says Robertson Smith, "the husband was so indifferent to his wife's fidelity, that he might send her to cohabit with another man to get himself a goodly seed or might lend her to a guest."²³ "We read, indeed, with surprise," says Von Kremer, "of the Fizārite Mandhūr ibn Zaban as having kept in tact the marriage with his deceased father's wife, which he had contracted at the time of heathenism."²⁴ Even this was not all. Not only

21. Von Kremer: Translated by S. K. Bukhsh: *Contributions to the History of Islamic Civilisation*, p. 156.

22. Ibn Khaldūn, Völ. II. Part III, p. 2. To these bad habits there are frequent references in the Holy Qur'ān, for example in 5 : 8, 5 : 90, 2 : 219.

23. Robertson Smith: *Kinship and Marriage*, pp. 89-40.

24. Von Kremer: *Contributions*, p. 162. Also Al-Qur'ān, 4:22 For other cases see Usdul Ghābah under 'Ayās bin Rabāb' and Haarith bin 'Amru.

was slavery universal and worst cruelties perpetrated on those captured in the ever continuous wars, but infanticide was common and girls were buried alive and the Holy Qur'an at several places testifies to this inhuman practice. Thus it says :

“And when a daughter is announced to one of them— his face becomes black and he is full of wrath.”
16 : 58.

“He hides himself from the people because of the evil of that which is announced to him, shall he keep it with disgrace or bury it (alive) in the dust ? Now surely, evil is what they judge.”
16 : 59.

To sum up, we may now say that not only was Arabia politically in a state of war, her religious, moral and social life was corrupt beyond imagination.

Two reasons of Hobbes' account of the State of Nature

We will now see how this account of the Age of Ignorance in Ancient Arabia compares with Hobbes' account of the State of Nature.

‘As regards Hobbes' account two remarks have often been made—firstly, that he pictured that state in darker colours because he had seen the horrors of the civil war in England from 1641-1649, and secondly, that the justification of absolutism demanded such a picture so that the people might think hundred times before

they decided to revolt against the monarch, as their act would again land them in a state of war from which they had escaped by making the Contract. The first argument tries to make the State of Nature '*historical*' ; though rather in an exaggerated form, the second maintains it as only a *speculative hypothesis* but Hobbes himself, as we have already seen, refers to America for the correctness of his picture *and it is really strange that his imagination should have travelled beyond the seas and he should not have caught a glimpse of Ancient Arabian history before the rise of Prophet Muhammad* (Peace be on him !)

Comparison of Hobbes' account and of Ancient Arabian Condition

Now that we have seen the political chaos and moral confusion as it prevailed in Ancient Arabia, we may easily compare it with Hobbes' account of the State of Nature thus :

In the first place Hobbes' men in the State of Nature were *equal* and we have already seen how *an Arab was by nature an equal of every other Arab* and how he knew no subordination.

Secondly, according to Hobbes, "The Right of Nature, which writers call *Jus Naturale*, is the liberty each man hath, to use his own power, as he will himself, for the preservation of his own Nature, that is to say, of his own life ; and consequently, of doing

anything, which in his own Judgment, and Reason, he shall conceive to be the aptest means thereunto."²⁵ *This right, as we have seen, was claimed by every Arab and he exercised it to the best of his power, judgment, and reason.*

Thirdly, according to Hobbes "By Liberty, is understood, the absence of external impediments"²⁶ and to the Ancient Arab also *Liberty meant unlimited freedom or licence.*

Fourthly, in the State of Nature of Hobbes "Every man is Enemy to every man.....and in such' condition, there is no place for Industry ; because the fruit thereof is uncertain : and consequently no Culture of the Earth, no Navigation, nor use of the Commodities that may be imported by Sea : no commodious Building ; no Instruments of moving, and removing such things as require much force ; no knowledge of the face of the Earth ; no account of Time ; no Arts ; no Letters ; no Society ; and which is worst of all, continual fear and danger of violent death ; and the life of man, solitary, poor, nasty, brutish, and short."²⁷ Similar conditions, we have already read, existed in the Age of Ignorance in Ancient Arabia also and it is to this state of things that Gibbon refers in these words :—

"In this primitive and abject state which ill deserves

²⁵ Hobbes : *Leviathan* (Everyman's Library), p. 66.

²⁶ *Ibid.*, p. 66.

²⁷ *Ibid.*, pp. 64—65.

the name of society, the human brute, without arts and laws, almost without sense and language, is poorly distinguished from the rest of the animal creation."²⁸

Fifthly, in this war of every one against every one in Hobbes, account the only law actually followed was *the law of the sword* and in Ancient Arabia also we have seen that *the law of the sword was the rule rather than the exception* and blood for blood was the battle cry.

Sixthly, according to Hobbes, "To this war of every man against every man, this also is consequent—that nothing can be unjust. The notions of Right and Wrong, Justice and Injustice have there no place. Where there is no Common Power, there is no Law ; where no Law, no Injustice. Force and fraud are in war the two cardinal virtues. Justice and Injustice are none of the Faculties neither of the body, nor mind. ... They are Qualities, that relate to men in society, *not in Solitude*. It is consequent also to the same condition, that there is to be no Propriety, no Dominion, no Mine and Thine distinct, but only that to be every man's that he can get ; and for so long as he can keep it."²⁹ In Ancient Arabia also we have seen that there was *no Common Power* and, therefore, *no Common Law*. *There was not only the individualism of the tribe and the clan run mad : the individualism of the indi-*

28 Gibbon : Bury's Edition, Vol. V, p 314.

29. Hobbes : *Leviathan*, (E.L.) p,66.

vidual himself had no bounds and the individual of the age of Ignorance could not be easily 'tamed' or made a social animal for whom dependence or subordination is not only necessity but is also a 'virtue.' The tribe itself *was in no sense a community, it was a mere aggregate of independent individuals.* In the words of Oppenheimer, the life of the tribe was the life of Anarchy.³⁰

Hobbes' Account is Historical

Thus it is clear that *the whole account of Hobbes' State of Nature is wholly and in fact literally warranted by the early history of Ancient Arabia.* Will we then be far wrong if we say that this account is *fully historical*, and not merely 'most nearly historic' as Nevinson seems to suggest? Can we further assume that, even though Hobbes does not mention it, *he might have read Arabian History also (along with the History of Judaism and Christianity)* and, consciously or unconsciously, *he might have been influenced by conditions of the Age of Ignorance which is a literal equivalent of his State of Nature?* This suggestion may, on the face of it, seem to be farfetched, but it is not beyond the realm of probabi-

30. Oppenheimer: *The State*—He cites several instances of the anarchic existence of tribes but this use of the word, 'Anarchy' is not in the sense of turmoil and disorder, but in the sense of perfect individualism, *i. e.*, in the absence of control.

lities, for Hobbes was the last of the Renaissance thinkers, and during Renaissance Arab learning—their philosophy, science and mathematics was already the common heritage of Europe through the Universities of Spain (and Hobbes was so much enamoured of Geometry that he regarded it as the only Great Science). *It, therefore, passes commonsense to accept that Europe read every aspect of Arab learning save their history.* It seems to me, therefore, not only that Hobbes might have studied Arabian History; even Locke and Rousseau might have been affected in the formulation of their political thought by the course of events in Arabia. This last statement we hope to see corroborated in the coming pages.

Laws of Nature in Hobbes

We have now seen the State of Nature with its elements—the Right of Nature and the Liberty of Nature in Hobbes. But he also speaks of the Laws of Nature (*Lex Naturalis*). A Law of Nature to him is a Precept or General Rule found out by Reason, by which a man is forbidden to do, that, which is destructive of his life, or taketh away the means of preserving the same; and to omit, that, by which he thinketh it may be best preserved.³¹ As man was living in continued warfare of every one against every one,

31. Hobbes: *Leviathan* (E. L.), p. 66.

and there was impending fear of death every minute, there must come 'Passions' in their minds that might 'incline them to Peace' and these passions must necessarily be 'Fear of death, Desire of such things as are necessary to commodious living; and a Hope by their industry to obtain them. And *Reason suggesteth convenient Articles of Peace*; upon which men may be drawn to agreement.³² These articles are the Laws of Nature. From this thesis of Hobbes, it is clear, that after a continuous state of war, the greatest necessity felt by men was for the Laws of Peace. "This Law" says Vaughan,³³ "Hobbes, more generous by half than Moses, lays out into fifteen Commandments" but he could have 'well stopped short with the first three.'—

1. To seek peace and follow it (or ensue it).
2. That men are obliged to transfer to another such rights as, being retained, hinder the peace of mankind.
3. That men perform their covenants made.

This law, of which the above are the commandments, is, 'external and immutable law'—the Law of Nature but Hobbes is not consistent in his statements. He has used the term Law of Nature in three senses:³⁴

- (i) the law of the sword,

32. Hobbes : *Leviathan* (E. L.), p. 66.

33. Vaughan, Vol. I, p. 24.

34. *Ibid.*, pp. 24 & 43—47.

- (ii) the law of expediency—"Convenient Articles"
 - . —not a duty, but a rule of prudence; and
 - lastly
- (iii) also in the sense of a moral law as in the third commandment above where people adhere to it as a matter of faith—of moral duty or obligation.

Islamic Laws as Divine Laws of Nature

Similarly, in Ancient Arabia, the state of war, rapine and murder demanded *laws of peace* for the law of the jungle and these Laws of Peace were given by *Islam* which literally means submission or peace.³⁵ But the Islamic Laws (the Divine laws of Nature) could not be used in these variety of senses. They *were and are really 'eternal and immutable Laws.'* They were and remain Moral Laws, and are based not on interest or expediency, but on duty and are the *Articles of faith*. They are the commands of God and are recognized by Conscience as absolutely binding.³⁵ In this sense the Divine Laws of Nature in *Islam* are more akin in meaning to those of *Locke* for in him they were unalterable moral laws.³⁶ But *Locke* had left their interpretation to individual conscience for he

³⁵ Vaughan: Vol. 1, p. 43.

³⁶ Rousseau does not speak of the Laws of Nature in any detailed form. Hence I have not referred to him in this connection.

assumed that each individual had a knowledge of them. Islām however, as we shall see, *codifies them like Hobbes* and definitely enumerates them both in theory and practice, and reduces their number to five only.

The Meanings of Law

'There are two main senses,' says Vaughan, 'in which the term Law may legitimately be used. It may either mean a law of nature ; that is, a generalisation of what is observed actually to happen, under certain circumstances, to inanimate objects, or to be done, again under certain circumstances, by inanimate agents. Or it may mean a moral law, that is, a command issued by God or Conscience.....and recognized as bindingby a human agent'³⁷ ...*The word 'Islām' connotes both these senses.* That word, as has already been indicated, means, submission and obedience ;³⁸ as derived from 'aslama,' it means, 'entering into peace.'³⁹ This submission to the will of God is a life of peace

37 Vaughan, Vol. I, p. 43.

38 Says Hobbes: "Obedience to His Laws, (that is, in this case to the Laws of Nature) is the greatest worship of all" For as Obedience is more acceptable to God than Sacrifice ; so also to set right by His Commandments, is the greatest of all contumelies. And these are the Laws of that Divine Worship which Natural Reason dictateath to private men.

39 For the meaning of Islām, see also Margoliouth *Mohammedanism*, p. 5, and Boworth Smith : *Mohammed & Mohammedanism*, p. 187.

and obedience. Everything in nature is working, automatically it seems, according to some plan or Law of Nature from which it cannot go astray. Whether it is earth, the heavenly bodies, the plant or the animal life, their course has been marked out by an Almighty Creator Whose Laws of Nature are keeping them intact and in harmony.⁴⁰ Similarly the nature of man, his very being, his heart, head and hands, and feet and other organs are all working automatically according to a certain plan or Law of Nature. They are therefore, obedient to the Laws of God which are the Laws of Nature.⁴¹

40 'The religion of Law and obedience thus seems to obtain all around us, and to be strictly observed by every atom in Nature. Thus 'the whole creation', in the words of Amir 'Ali, 'is full of the signs of God. The structure of your body, how wonderfully complex, how beautifully regulated ; the alternations of night and day, of life and death ; your sleeping and awaking, your desire to accumulate from the abundance of God ; the winds driving abroad the pregnant clouds as the forerunners of the Creator's Mercy : the harmony and order in the midst of diversity ; the variety of the human race, and yet their close affinity,—are not these signs enough of the presence of a Master-Mind ? ' Nay, the very complementary relations which various objects in Nature reciprocally hold and the mutual service they render are only the outcome of the submission yielded by these manifestations of Nature to Divine Laws i. e. the Laws of Nature'. —Amir 'Ali. *The spirit of Islam*. p. 31 (Calcutta, S. K. Lahiri Co. 1902).

41 'Is not man a part of the same Nature,' 'a mighty atom, the best product of nature, the finest handiwork of God ? And if so, is it possible for him to be without a religion ? Every atom in Nature has found its place in the human body. Man is the universe in

Man has an autonomy of Will

Man, however, as different from the whole of the creation ⁴² has been given an autonomy of the will and is, therefore, to be guided by *the light of his reason*, not in the automatic movement of the various parts of his organism, but in the conscious life with his fellow creatures. Hence his reason has to understand Laws of Nature not in the sense *physical laws* only but in the sense of *moral laws of human nature also*.

Law in Islam

Thus Islām stands for Law in both the senses of physical and moral, and both of them are the *com-*

miniature—a microcosm in the scientific term. Every organ in him follows the religion of Law and obedience for its very existence. In other words, every organ performs its respective functions in complete submission to certain fixed Law. The very minute they fail to do so, it brings serious illness or death. Therefore, man cannot as a whole have any other religion but that which is strictly observed by the very components of his body and nature.' *Towards Islam* by K. Kamāluddin (1923), p. 16.

42 Says Hobbes : "Seeing there are no signs, nor fruit of Religion, but in man only; there is no cause to doubt, but that the seed of Religion is also only in Man; and consisteth in some peculiar quality, or at least in some eminent degree thereof, not to be found in other living creatures." *Leviathan*, Ch. XII, p. 54 (Everyman's Library).

Also see his three points (i) Man as inquisitive. (ii) effect of sight on his thinking, and (iii) memory and foresight.

mands of God and both these aspects can be seen in the following verses :—

1. Is it then other than Allah's religion that they seek to follow and *to Him submits whoever is in the heaven and the earth*, willingly or unwillingly and to Him shall they be returned.
3 : 82.
2. Then set your face upright for religion in the right state—*the nature made by Allah in which He has made men*; there is no altering of Allah's creation; that is the right religion but most people do not know. 30 : 30.

The Prophet of Islam is the Prophet of Nature

Thus Islām is the religion of Nature—of submission and obedience—and its laws are the (Divine) Laws of Nature. Besides Islām as the religion of Nature, the Prophet of Islām himself has been called the *Prophet of Nature*. “To the Prophet of Islām” says Amīr ‘Alī, “Nature itself is a revelation and a miracle.

“There is a tongue in every leaf,
A voice in every rill
A voice that speaketh everywhere,
In flood and fair, through earth and air,
A voice that is never still.”

“The Prophet of Monotheism is pre-eminently the Prophet of Nature. His ethical appeal and his earnest assertion of divine unity are founded upon the rational

and intellectual recognition of all-pervading order, of the visible presence of One Mind, One Will, regulating, guiding and governing the Universe. His grandest miracle is the Book in which he has poured forth with an inspired tongue all the revelations of *nature*, *conscience* and *prophecy*.⁴³

The Holy Quran

And the Book, that is, the Holy Qur'an itself is, therefore, a *Code of Nature* for it itself asserts "And there is no animal that walks upon the earth nor a bird that flies with its two wings, but they are genera like yourselves. *We have not neglected anything* in the Book, then to their Lord they shall be gathered. 6 : 38.

It is this truth which Hurgronje has been forced to recognise in these words : "No Religion," says Reland, "has been more calumniated than Islām," although the Abbe Maracci himself could give no better explanation of the turning of many Jews and Christians to this religion than the fact that it contains *many elements of natural truth*, evidently borrowed from the Christian religion, *which seem to be in accordance with the law and the light of Nature*.⁴⁴

Thus to summarize, not only Islām is the Religion of Nature : its prophet himself was a Prophet of

43 Amir 'Aī, *The Spirit of Islam*. (1902) (Italics are mine)

44 Hurgronje *Mohammedanism*, p 8

Nature and the Holy Qu'ān itself is a complete Code of Nature.

Corruption of Moral Laws

However, to continue our argument on the two senses of law, from times immemorial, not only these physical laws have been working in Nature, the moral laws too have been working in the social life of man. But, according to Islām, the physical laws have always been beyond the reach of man and hence they have been working *harmoniously and unerringly*, but the moral laws as given to all men through Prophets and Books of God in all ages and times, *have been corrupted by human hands*⁴⁵. The Holy Qur'ān thus asserts the corruption of God's Books by human hands :

"Woe to them, to those who write the book with their hands and then say, this is from Allah, so that they may take it for a small price ; therefore woe to them for whatever their hands have written, and woe to them for what they earn." 2 : 79.

45. Even Rousseau admits the corruption of Christianity by human hands thus ; I began to consider the destination of my children and my connection with their mother, in the light of the laws of nature, justice, and reason, and of that religion—pure, holy, and eternal like its author—which men have polluted, while pretending to be anxious to purify it, and which they have converted, by their formulas into a mere religion of words—*Confessions*, p. 88, vol. II, (Oliver and Boyd Edition.)

Hence the necessity of revelation again and again has been to correct the corrupted life of man who began to follow laws of his own making, his own customs and traditions or the customs and traditions of his forefathers. The Holy Qurān⁴⁶ emphatically asserts this aspect also thus :—"And when it is said to them, Follow what Allah has revealed, they say ; Nay, we follow *what we found our fathers upon* what ! and though their fathers had no sense at all nor did they follow the right way." (2 : 170). Thus custom was always pitted against the natural or the divine and this was so in Arabia as well as in other parts of the world even though warners had always been sent to all nations and peoples :

"And certainly We raised in every nation an Apostle saying : Serve Allah and shun the devil." 16 : 36.

"And certainly We sent Apostles before you, there are some of them We have mentioned to you and there are others whom We have not mentioned to you." 40 : 78.

46. In this Verse the Qur'ānic emphasis is on the side of Bentham rather than on the side of Burke for the former wanted to profit by the folly of ancestors and the latter worshipped the wisdom of the forefathers.

The Historians' History : Article By Goldziher—summarises the Qur'ānic indictments of these customs, p. 295.

The Necessity of A New Book

After stating the corruption of all the Books of God by human hands, the necessity of a new revelation has been justified by the Holy Qur'an in these emphatic words :

"Corruption has appeared in the land and sea on account of what the hands of men have wrought, that He may make them taste a part of that which they have done, so that they may return." 30 : 41.

Hence the Holy Qur'an has been revealed as *the summary of all the revealed books of God* (which had already been corrupted)...as 'pure pages wherein are all the right books' (XCVIII, 2 : 3). It, therefore, *does not bring a new religion* for the human race. It only *rightly* continues the religion of Abraham,⁴⁷ and of other prophets of God including Moses and Jesus. Thus says the Holy Qur'an :

"Say, we believe in Allah and (in) that which has been revealed to us and (in) that which was revealed to Abraham and Ishmael and Issac, and Jacob and the tribes, and (in) that which was given to Moses and Jesus, and (in) that which was given to the prophets from their Lord : We do not

47. The Historians' History of the World, Article by Dr. I. Goldziher, p. 294. Also says Hobbes 'And it is of Abraham (not of Moses) St. Paul saith (Rom. 4,11) that *he is the father of the Faithful.*'

make any distinction between any of them and to Him do we submit." 2 : 136.

Abraham has been spoken of in the Holy Book as one who was a Muslim :

'Abraham was not a Jew nor a Christian, but he was (an) upright man, a Muslim, and he was not one of the polytheists.' 3 : 66.

And Prophet Muhammad (Peace be on him !) (has also been commanded to *be the first* to submit :

'Say,' "I am commanded that I should serve Allah, being sincere to him in obedience. And I am commanded that I shall be the first of those who submit." 39 : 11, 12.

The Holy Quran is the Light

The utter darkness of his age was to be dispelled by the Light of Allah through the agency of the Holy Qur'an, for "This is a Book which We have re-sealed to you and you may bring forth men, by their Lord's permission, from utter darkness into light to the way of the Mighty, the Praised One." 14 : 1.

And it is a Book 'in which is your eminence'— 21 : 10.

From what we have seen above, it is clear that in Islām there is no difference between the Divine Laws and the Laws of Nature and hence there is no antithesis between 'Nature' and 'Revelation.'

Law in Islam and in St. Thomas Aquinas

The Islāmic conception wholly differs from the conception of Law as put down by St. Thomas Aquinas in the Middle Ages. To him,

1. Eternal Law is the controlling plan of the universe existing in the mind of God. It is the design of the universe, conceived as the supreme reason of God, the Creator.⁴⁸

2. Natural Law is that participation of man, as rational creature, in the eternal law, through which he distinguishes between good and evil and seeks his true end.

3. Human Law is the application by human reason of the precepts of Natural law to particular earthly conditions.

4. Divine Law in the special sense was that through which the limitations and interpretations of human reason were supplemented and man was infallibly directed to his end—eternal blessedness ; it was the Law of Revelation. 'With its two sub-divisions of old and new,' it 'is the will of God as revealed in the Old and New Testaments.'

Law in Islam and in Cicero

Thus in Islām, as we find in Cicero more than in any other writer, Eternal Law, Divine Law and Natural

48. Dunning : *A History of Political Theories*, Vol. I, p. 194.

Law are only interchangeable terms and human law is nothing separate from or antagonistic to Divine Law,⁴⁹ for 'right reason' cannot go against the divine Law. Says Cicero 'There is in fact a true law—namely, right reason—which is in accordance with nature, applies to all men and is unchangeable and eternal. By its commands this law summons men to the performance of their duties, by its prohibitions it restrains them from doing wrong . . . there will be one law, eternal and unchangeable binding at all times upon all peoples; there will be as it were one common master and ruler of men, namely, God, Who is the author of this law, its interpreter, and its sponsor. The man who will not obey it will abandon his better self, and in denying the true nature of a man, will thereby suffer the severest of penalties.'⁵⁰ Dunning also summarises his view point in these words. "All nature is ruled by God. Man is the highest of created things,⁵¹ through the possession of reason he is distinct from other

49. Hobbes also says, 'God declareth His laws in three ways; by the dictates of *Natural Reason*, by *Revelation* and by the voice of some *man*, to whom by the operation of *Miracles*, He procureth credit with the rest. From hence then ariseth a triple Word of God, Rational, Sensible and Prophetique to which correspondeth a triple Hearing: Right Reason, Sense Supernatural and Faith.' *Leviathan*, (E.L.), p. 190. This differentiation by Hobbes, though interesting, does not square with the Islamic conception as stated above.

50. Sabine: *A History of Political Theory*, p. 164.

51. The Holy Qu'rân: 'Certainly We created man in the best make.' (XCVI—4).

creatures and like the Creator. By virtue of the divine element in human nature man participates in the ultimate principles of right and justice, which are merely elements of the law by which God rules the universe. Further all men possess by nature the consciousness of those principles for men are alike rational. The Oneness of human nature is absolute; no one is so like to himself as all are like to all,' though evil habits may bring apparent diversity. But to whomsoever reason is given by nature, so also is right reason, hence also law, which is right reason in commanding and forbidding. Thus the law of nature (*lex naturalis*), or law pure and simple, is the source and limit of all rights, even the natural rights (*ius naturale*) Law in the true and ultimate sense is eternal wisdom, ruling the world. Among men it is the rational dictate of the sage (*sapientis*) as to what is to be commanded and what forbidden."⁵².

Thus the Prophet of Islām when promulgating the Divine Laws of Nature or of right reason does not ordinarily refer or resort to the 'miraculous' to assert the truth of his mission. He again and again appeals to the familiar phenomena of nature as signs of the divine presence. He unswervingly addresses himself to the inner consci-

52. Dunning, Vol II, pp., 128—124.

Thus, as Dunning has also pointed out, Cicero uses Nature in various senses. 1. Universe as created. 2. The forces of the physical world. 3. The creator of man etc.

ousness of man, to his reason, and not to his weakness or his credulity.⁵³ Verse after verse can be quoted from the Holy Qur'ān in which this appeal to reason is time and again addressed so that man may try to understand his true nature. Thus says the Holy Qur'ān.

"He grants wisdom to whom He pleases and who-ever is granted wisdom, he indeed is given a great good, and *none but men of understanding mind.*" 2 : 269.

"And they swear by Allah with the most energetic of their oaths that if you command them they would certainly go forth. Say! Swear not, *reasonable obedience is desired :*" 24:53.

Principles of Islam or the Divine Laws of Nature

From the above discussion it is clear that the Holy Qur'ān laid down certain principles or the *Laws of Nature* which were to be followed by men in their social life if they wanted to do away with ~~all the~~ ^{TY LIEKA} immoralities and absurdities that had been prevailing in the State of Ignorance, and if they really desired to be successful in life and establish in Hobbes' words, '*the Kingdom of God by nature.*' These principles have been set forth in the following verse:

"This book, there is no doubt in it, is a guide to those who guard (against evil), those who believe in the unseen and keep up prayer and spend out what We have given them and who believe in that which

53. Amir 'Ali : Spirit of Islam, p. 30.

has been revealed to you and that which was revealed before you, and they are sure of the hereafter." 2 : 2-4.

An analysis of this verse thus gives us the following principles of Islām⁵⁴ or of the Divine Laws of Nature :

1. Belief in the unseen, that is, in the One God and in Angels.⁵⁵
2. Belief in all Revelations.
3. Belief in the Hereafter.
4. Keeping up Prayers and
5. Spending of what God has given us.

Of these the first three are *matters of theoretical belief* and the last two concern the *practical and day to day life*, thus theory and practice, belief and action⁵⁶ go side by side.

54. See also *Usdul Ghābah* under *Sawād bñ Hārith Azdī*, for principles of Islām under 15 points—3 groups of 'five points' each:

- (i) Matters of faith : God, Angels, Revelations, Prophets, and Hereafter.
- (ii) Matters of action : the Kalūma, Prayer, Zakāt, Haj and Fast.
- (iii) Corollaries of both : To thank God in peace and prosperity, to be patient in distress, to be steadfast in battle, to remain contented in what is passing and to bear silently the tortures of the enemy.

55. On Angels—See Hobbes : *Leviathan*, (Everyman's Library), p. 214.

56. 'There be some signs of Honour, (both in *attributes and actions*) that be Naturally so ; as amongst attributes, Good, Just, Liberal and the like ; amongst Actions, *Prayers, Thanks and Obedience.*' Hobbes : *Leviathan*, (E.L.), p. 192.

The First Law of Nature in Islam

The first principle, that is, belief in the reality and unity of God is in every sense *the First Principle of all Nature*. It is the 'eternal principle' and therefore the be-all and the end-all of all things. As Hobbes has put it, "he that from any effect he seeth come to pass, should reason to the next and immediate cause thereof, and from thence to the cause of that cause, and prolong himself profoundly in the pursuit of causes ; shall at last come to this that there must be (as even the Heathen Philosophers composed) *one First Mover* ; that is, a First, and an Eternal Cause of all things ; which is that which men mean by the name of God."—Eternal, Infinite and Omnipotent.⁵⁷ The whole of nature, in spite of its diversity, exhibits the unity of its Creator. Similarly, the world of man in spite of its diversities of colour, creed and clime exhibits the unity of its maker. The unity of the human race, therefore, is nothing but a manifestation of its Creator. Hence God is a Living Force, the Sustainer and Disposer of all things and '*to Him is the final return.*' This shows that, 'by denying the Existence or Providence of God, men may shake off their ease but not their yoke.'⁵⁸ He is the '*Lord of the Worlds*'—the only Majestic Sovereign of the Universe. Besides, Allah is also the only real *Light of Nature* and the Holy Qur'an in a

57. Hobbes : *Leviathan*. (E.L), p. 55.

58. *Ibid*, p. 190.

characteristically illuminating verse puts this aspect thus : "Allah is the light of the heavens and the earth, a likeness of His Light, is as a pillar on which is a lamp, the lamp is in a glass, (and) the glass is as it were a brightly shining star, lit from a blessed olive tree, neither eastern nor western, the oil whereof almost gives light though fire touch it not—light upon light—Allah guides to His Light whom He pleases, and Allah sets forth parables for men, and Allah is cognizant of all things." 24 : 35.

Thus God is the Eternal Living Law and Light of Nature in Islām and it was this Light⁵⁹ which was lost

59. In political philosophy, 'the appeal to Nature succeeds the appeal to divine institution and is expressed by '*The Light of Nature*', that is, the light of nature is contrasted with divine revelation as a means of knowledge.' 'To some writers it means, or comes, to mean a process of reason; but to some it is essentially intuition and may consist of innate ideas' as in India Gandhiji often declares that he has not yet seen the 'light.' 'Others again find the guiding light of nature in instinct, emotion and feeling.' 'But however interpreted', says Lord, 'it is taken to be within its proper limits, a true and direct illumination of facts. The appeal is once more to an objective, real order even in the subjective processes of the mind.' Herein thus lay 'an effort to find or lay an objective, [real, solid foundation upon which the structure of political truth might rest. This at least the appeals to God and to Nature have in common. Both are appeals to reason—whether an ordinance of God or an institution of man whether rooted in nature or created by art, the State is the fundamental fact for politics and it must be regarded as a reality, the truth which is more than a mere opinion' (In Hobbes there is no such contradiction :

sight of not only in Ancient Arabia—an Arabia of darkness and error—but in fact everywhere in the world. The Prophet of Islām was *the solitary figure* to have caught this Light and the Holy Qurān itself says: 'O Prophet, surely We have sent you as a witness and a bearer of good news and as a warner, and as one inviting to Allah by His permission and as a light giving torch'—33 : 45. Thus the Prophet of Islām began to preach the unity of God in a country in which there were 360 gods but no God, and in the words of Bosworth Smith it was 'in his assertion of this that there lay the religious genius of Mohammed. This gave the Arabs unity as a nation, discipline and enthusiasm as an army. This sent them forth in their wild crusade against the world ; and armed with this, they swept before them every creed or memory of a creed which did not then contain any principle so inspiring.'⁶⁰ Even Von

'That we may know what worship of God is taught us by the light of Nature' p. 193, *Leviathan* (E. L.).

In Islām, then, there is no contradiction between the Light of Nature and the Divine revelation, and as will be seen later on in these pages, the Isāmic conception of state is at once an ordinance of God, an institution of man and a result of his nature as well as of his art. It is God's creation as well as of Man's making. This is the so-called democratic conception of divine government. Hence in Islām if God is the Eternal Law, He is also the only real Light of Nature.

60 Bosworth Smith: *Mohammed and Mohammedanism*, p. 112

Kremer also writes in the same strain when he says : "Islām gave the Arabs the purest monotheism unalloyed with baser metal, impressed upon them the seriousness of life, struck at the very root of social corruption, destroyed their insularity and made them the heralds, and pioneers of civilization."⁶¹ In the words of Gibbon : "The Koran is a glorious testimony to the unity of God. The Prophet of Mecca rejected the worship of idols and men, of stars and planets, on the *rational* principle that whatever rises must set, that whatever is born must die, that whatever is corruptible must decay and perish. In the Author of the Universe, his *rational enthusiasm* confessed and adored an infinite and eternal being, without form or place, without issue or similitude, present to our most secret thoughts, existing by the necessity of His own nature, and deriving from Himself all moral and intellectual perfection "⁶².

The Second Law of Nature in Islam

The Second Law of Nature in Islām is the belief in all Revelations. Hence a Muslim cannot make distinctions between the various prophets of God. A true Muslim, therefore, is one who accepts all prophets as prophets of God and Muḥammad (Peace be on him !) is the last Prophet of God. The Holy Qu'rān as has

⁶¹ Von Kremer : *Contributions*, Translated By. S. K. Bukhsh, p 169.

⁶² Historians' History of the World, p 136 (quoted and reproduced in full)

already been said is a summary of all the 'right books' and this Book will no longer be corrupted by human hands. Thus says Bosworth Smith : In the Qur'ān, "We have a book absolutely unique in its origin, in its preservation, but on the authenticity of which no one has ever been able to cast a serious doubt."⁶³

On this principle, the belief in All Revelations, was thus to be based the unity of *all* religions and therefore the unity of human race (along with the unity of its Creator), but this was not to be for the Jews and Christians rejected the Prophet of Islām and hence the unity of Muslims (those who had submitted) formed the basis of a universal brotherhood. Says the Holy Qur'ān :—

"All people *are a single nation* ; so Allah raised prophets as bearers of good news and as warners, and He revealed with them the book with truth that it might judge between people in that in which they differed, and none but the very people who were given it differed about it after clear arguments had come to them revolting amongst themselves, so Allah has guided by His will those who believe to the truth about which they differed and Allah guides whom He pleases to the right path." 2:213.

The Third Law of Nature in Islam

The third law of nature in Islām is a belief in the

63 Bosworth Smith : *Mohammed and Mohammedanism* p. 17.

hereafter—the future life—for in the words of the Holy Qurān 'And Allah invites to the abode of peace and guides whom He pleases into the right path' 10:25. And 'Their Salutation on the day they shall meet Him shall be, Peace, and He has prepared for them an honourable reward' 33:4. Thus in Islām this world is only a temporary abode, for 'all things must taste of death' and 'to Him is the final return.' Hence the life of this world is not for mere eating, drinking and being merry. This life is to be lived seriously as preparatory to the future life of unlimited progress. The Holy Qurān again says, 'And this life of the world is nothing but a sport and a play ; and as for the next abode, that most surely is the life ; did they but know.' (29 : 14), for 'With it Allah guides him who will follow His pleasure into the ways of peace and brings them out of utter darkness into light by His will and guides them to the right path.' 5 : 16.

Man will have to account for his deeds that he has done in this world and 'And it would be a day when the evil doers would have to repent for what they did in this life' for the Holy Qurān observes 'And We have made everyman's actions to cling to his neck and We will bring forth to him on the resurrection day a book which he will find wide open. Read your book ; your ownself is sufficient as a reckoner against you this day. Whoever goes aright, for his own soul does he go aright, and whoever goes astray to its detriment only does he go astray ; nor can the bearer

of a burden bear the burden of another nor do We chastize until We raise an apostle.' 17 : 13—15.

Thus man is to remain a thoroughly conscious moral agent, for after his death what will be asked of him will not be what he *has left behind in this world* but what he *had sent forward*, that is, not wealth which is left for the survivors, but actions which would save him from the fire of hell. Hence 'hell' is a *permanent* abode for evil doers—the rebels or transgressors against the Laws of Nature and 'heaven' is a permanent abode of those *who have submitted* (i.e., who are Muslims). This world, therefore, is the place for doing right and good actions, for the development of personality, for the perfection of character and for self-realisation and *this cannot be achieved without piety and virtue*. Thus the idea of the *permanent life of the hereafter* has not only created God-fearing saints : it has made possible the noblest and highest sacrifices on the part of man. Even death has been spurned, for if one dies in the way of the Lord his life has not been cut short, it has reached *its real end*—the permanent abode which is 'heaven'⁶⁴. *This is the teleological view of life* that Islām has presented

64. In modern times, the significance of an 'ideal' is being emphasised in various ways. Thus Sorel emphasised the 'Myth' and even the Fascists, after the idea of Sorel, have been emphasizing the myth of a 'Nation.' The Socialists and Communists have been emphasizing the realisation of Final Communism

and it was, therefore, the acceptance of this teaching by the Ancient Arabs that changed them from wild animals or brutes into human beings and made them capable of such sacrifices that neither home, nor wife, nor children, nor the riches of the world could prevent them from the way of Allah which they had once chosen for their life.

The Fourth Law of Nature

The fourth Law of Nature in Islām is not a matter of belief merely ; it is a matter of action, of practical life. Thus Prayers—as the fourth Law—include Salāt or Namāz, Fasting and the Haj, and in the words of the Holy Qur'ān 'Surely prayer keeps men away from indecency and evil and the remembrance of Allah that is the greatest' 29 : 45, and 'they are not too proud to serve Him and they declare His Glory and throw themselves down in humility before Him.' 7 : 206. Thus prayers to God are meant to create divine attributes in men, for God 'is nearer even the blood vein.' He is ever present, seeing and hearing. Thus says the Holy Qur'ān :

'And when My servants ask you concerning Me, then surely I am very near ; I answer the prayer of the suppliant when he calls on Me, so they should answer My Call and believe in Me that they may walk in the right way.' 2 : 186.

Prayers thus are meant for the purification and

elevation of one's own Soul, and this involves three relations—duty to God, duty to One's own self and to the Community in general. The last is best exhibited in Public Prayers⁶⁵ where high and low, rich and poor, king and slave have to stand shoulder to shoulder before the All-Seeing God. This means that prayers in practical life maintain *equality, liberty and fraternity* for even the slave can have *no limitation of man's imposition*, when he is in the house of God or when he is standing before his Creator.

In the Friday Prayers, people of the suburbs also join and in the Haj, peoples from all quarters of the globe come together and kneel in unison before their common Creator. *Could there be a better practical exhibition of the unity of the human race in a common fraternity?* It is to this spectacle and feeling of unity that Bosworth Smith refers in the following words :

'I shall be slow indeed to assert that the feelings which still draw year after year, Mussalmans by myriads from the burning sands of Africa, from the snows of Siberia and the Coral Reefs of the Malayas, towards a barren valley in Arabia, do not, on the whole, elevate rather than depress them in the scale of humanity. In their own rough and imperfect way, they raise the mind of the nomad and the shepherd from the animal life of the present

65. Says Hobbes—'Reason directeth not only to worship God in secret but also, and especially, in Publique. and in the sight of men.' *Leviathan*, (E. L.) p. 195.

to the memories of the distant past and the hopes of the far future. They are a living testimony to the unity of God, and a homage paid by the unprogressive nations of the world to that Prophet who softened the savage breast and elevated the savage mind and taught them what but for him they had never learned at all.⁶⁶

Besides these prayers,⁶⁷ fasting too is an important part of this Law of Nature, and is a necessary complement of prayers, for it restrains the appetite or desire, restrains the different organs of the body from all sin, and finally it turns man's mind from worldly care to God's service.⁶⁸ It thus kills the animal in man making him patient, enduring, steadfast and careful in his duty to his own soul, to others and to his God.

The Fifth Law of Nature

The fifth Law of Nature in Islām—which is also

66. Bosworth Smith: *Mohammed and Mohammedanism* pp. 116—117.

67. Margoliouth in his *Mohammedanism* (p. 76) gives a military character to the Prayers and Fasting in Islām and expresses himself thus 'The five daily 'Prayers' constituted a drill; the fasting month a test of endurance and an education therein; enthusiasm was provoked by the magnificence of the claim to form the leading caste on earth with a right to the possessions of all who did not belong to it and the alternatives between spoil and Paradise. Probably however even more enthusiasm was inspired by the belief that fighting was in the cause of God.' For this Military character also see Khudā Bakhsh: *Orient under the Caliphs*, p. 12.

68. See J. J. Poole, *Studies in Mohammedanism*, p. 188.

a practical proposition—is spending of what God has given to man. This is the Zakāt or the Poor Rate which is compulsory on all Muslims according to a fixed standard of their income. Hence hoarding has definitely been made impossible and it is advised that man should 'sell himself' to seek the pleasure of Allah which lies in the relief of the poor, the needy, the orphan and the wayfarer. Thus says the Holy Qur'ān "By no means shall you attain to righteousness until you spend (benevolently) out of what you *love* and whatever thing you spend Allah surely knows it." 3 : 9.

Thus Zakāt not only keeps up *the economic equality within* the community, it also fulfils the duty of man to man.

Summary of the Five Laws

Thus the Five Laws of Nature in Islām are meant for the "eminence" of man, and this lies in the recognition of God Himself Who is the Central Moving Force of the Whole Creation. The dignity of man can only be realised by fulfilment of duty to self, to community and to the Creator. Thus,

The first Law is the Eternal Principle of the whole universe and of the world of man and God's angels are the agencies of good between God and man.

The second Law emphasises the unity of all

religions as based on the unity of revelations, but man brings in differences by his darkness and error.

The third Law makes man a responsible moral agent placing before him a teleological view of life.

The fourth Law not only elevates the soul of every man for self realisation, it also keeps up equality, fraternity and liberty in practical life, and fasting specially acts as a great check on lowly desires, and trains man for the hardships of life in the way of piety and virtue.

The fifth Law kills the 'Shylock' in man keeping up economic equality in society and making possible the fulfilment of duty that man owes to man.

To sum up, the Five Laws of Nature in Islām are meant to keep up the remembrance of the Creator and thus saving him from rebellion and error. As such, they are for the eminence and dignity of man as man, for they check him from falling low and take to the life of perdition. They thus save man from (moral) terpitude or death; and put him on the way to perpetual peace and progress.

These then, in brief, were the Articles of Peace, which were first enunciated in the Arabia of war, idolatory and corruption, and these were the Articles

which brought *peace, unity and a moral and happy life* in that land of complete darkness and ignorance. As Zāidān puts it, 'Before Islām Yemenite would contend with Hījazite, Mudarite with Hīmayarite etc. Similar rivalry was to be found between the various clans, tribes and families; but when Islām came, *they were all united under one banner, with one title, 'Islām.'*⁶⁹ Similarly, Hurgonje observes, "However great a weight may be given to political and economic factors, it was religion, Islām, which in a certain sense united the hitherto hopelessly divided Arabs, Islām which enabled them to found an enormous international community; it was Islām which bound the speedily converted nations together even after the shattering of its political power and which still binds them today when only a miserable remnant of that power remains."⁷⁰

The Holy Qur'an a Complete Code of Life

The Code which embodies these Laws of Nature is the Holy Qur'ān—a book which, therefore, does not deal only with matters of *mere belief*, but also of action—in one word, of theory and practice alike. It is, therefore, *a complete code of life*. The Holy Book itself asserts :

'And certainly We have made distinct for men in

69. Zāidān—(Tr. by Margoliouth), pp. 28.

70. Hurgonje: *Mohammedanism*, p. 2—3

this Qur'ān *every kind of description*, but most men do not consent to aught but denying.' 17 : 89.

And the truth of this verse has been recognised not only by believing Muslims, but also by those who have tried to read and write on Islām. Thus says Davenport :

"The Qurān is the general code of the Muslim world, a social, civil, commercial, military, judicial, criminal, penal and yet religious code. By it every thing is regulated—'from the ceremonies of religion to those of daily life, from the salvation of the soul to the health of the body, from the rights of general community to those of each individual, from the interests of man to those of society, from morality to crime, from punishment here to that of the life to come.'

Similarly, Bosworth Smith observes :

"By a fortune absolutely unique in history, Mohammed is a threefold founder of a nation, of an empire and of a religion. Illiterate himself, scarcely able to read and write, he was yet the author of a book which is a poem, a code of law, a book of Common Prayer and a Bible in one, and is reverenced to this day by a sixth of the whole of the human race as a miracle of purity of style, of wisdom and of truth. It was the one miracle claimed by Mohammed, 'his standing miracle' he called it, *and a miracle indeed, it is.*"⁷¹

71. Bosworth Smith : *Mohammed and Mohammedanism*, p.

CHAPTER III

THE SOCIAL CONTRACT IN ISLĀM

We have now seen the State of Nature as it prevailed before the advent of Prophet Muhammad (Peace be on him!) and we have already briefly touched upon the excellence of the Laws of Peace that transformed that country of war, anarchy and moral degradation into one of unity, harmony and moral excellence. Now we will try to see *how that Contract was made* which brought about the Civil Society in which the laws of the sword were replaced by the Articles of Peace. We will, therefore, begin with a brief sketch of the life of the Prophet for he was the moving spirit which restored the Laws of Reason from oblivion and brought light in a country of darkness and sin.

The Birth and Early Life of the Prophet

The Prophet was born at Mecca as a posthumous child in 570 A.D. and was bred and brought up by his grandfather who entrusted him to the care of Halima, a nurse of the clan of the Banū Sa'd. From his fourth year, he began to accompany the sons of Halima when they went out to graze their cattle. When he was only six years old, his mother died and he was left an orphan. Two years after his grandfather also died and

he was thus left without any protection. His uncle Abū Ṭālib then became his guardian. In his thirteenth year he went to Syria for trade (with his uncle) and in his 20th year occurred the notorious Sacrilegious War (Harb-al-Fijār), so-called because it was waged during the sacred month of Dzulqa'd. It was fought out between the Quraish (the Prophet also belonged to this clan) and the Banū Kinānā on one side, and the Banū Qais bin Ghailān on the other.¹ In this war, the Prophet did not take any part save that of gathering up of the arrows discharged by the enemy and handing them over to his uncles.²

The Hilfal-Fudul and the beginning of a period of Contracts

After *four* years of fighting, peace was restored and as there was no government worth the name at Mecca, the descendants of Hāshim and the families of Zuhra and Taim formed an association known as the 'Hilfal-Fudūl' and agreed to stand by the oppressed and get them justice done. Ibn Sa'd thus notes the character of

1. Ibn Hishām, *Sīrat* (Urdū Translation), Lahore, 1915, p. 56. Also *Tārikh-i-Abul-Fidā* (Urdū Translation), p. 270. Maṭba'-i'-Ulūm Madrasa, Delhi (1847). The cause of this war, as usual in the Arabia of those days, was murder. *The Tabqat of Ibn Sa'd* quoted in original Arabic by Khān Bahādūr Syed Aulād Hajder in his *Uswatul Rasūl*, Vol. II, p. 69.

2 Ibn Hishām, p. 56, The *Uṣdūl Ghābāh* adds that the Prophet was also guarding or looking after their goods.

this contract : "This contract was better and superior to all such previous pledges."³ It was initiated by Zubair bin 'Abdul-Muṭṭalib and he called upon others to pledge. The Banū Hāshim, the Banū Zuhra and the Banū Taim gathered in the house of 'Abdullah bin Jadān for purposes of agreement. They first met on a common dinner and then they organized the meeting. In the presence of God, they made a Contract among themselves that they would fight on behalf of the oppressed against the aggressors up to the time the latter agreed to pay the compensation to the former. Ibn Hishām puts this affair in this way "All unanimously agreed on oath in the city of Mecca whether the oppressed be a traveller or he be one of the residents, they would force the oppressor to pay compensation."⁴ The Prophet was also present at the time of this Contract and he said that if further such Contracts be made for the cause of the oppressed and 'I be called, I would certainly respond.'⁵ But other clans did not join this Contract and they remained in the state of hostility in which they were passing their life.

³ Ibn Sa'd, *Tabqat* reproduced in the *Uswatul Rasul*, pp. 71-72. As regards 'previous pledges' Margoliouth says, "It seems there was an arrangement between the tribes whereby warfare should cease for four months in each year in order to permit of safe pilgrimage to the sanctuary." *Mohammedanism*, p. 43.

⁴ Ibn Hishām, p. 41.

⁵ *Tabqat Ibn Sa'd* as reproduced in the *Uswatul Rasul*.

The Prophet As *Amin* and his Part in the Fixing up of the Black Stone

However, the Prophet's gentle sweet disposition, his austerity of conduct, the severe purity of his life, his scrupulous refinement, his ever-ready helpfulness towards the poor and the weak, his noble sense of honour, his unflinching fidelity, his stern sense of duty had won him among his compatriots the high and enviable designation of *Al-Amin*, the trusty.⁶

In his twenty-fifth year he married Hadrat Khadija who was much influenced by his honesty, virtue and the nobility of the soul. In his thirty-fifth year, the Quraish decided to build the Ka'ba which was now in a shattered condition, but they began to quarrel on the fixing of the 'Black Stone.' The Prophet at once took a sheet of cloth and asked four men of the four divisions of the Quraish to hold each corner and the Black Stone was placed in the middle of the cloth. When it had been raised to the proper height, it was affixed by the Prophet himself.⁷ Thus was settled a quarrel which might have again brought in a state of war as Hobbes pictured it. Says Tabari: "When the time came of affixing the Black Stone, every one desired to place it at the *Spot*. On this basis, all of

⁶ Amir 'Ali, *The Spirit of Islam*, p 13. The same sketch of character occurs in Ibn Sa'd, Ibn Hishām and in Tabari.

⁷ Tarikh-i-Abul Fida, p. 272.

them began to get out of the limits of patience and, on oath, became ready for war and bloodshed. The Banū 'Abdud-Dār went to this extent—according to the Arab custom of swearing on such hard occasions—that they filled a cup with pure fresh blood and following the practice of the Arabia of ignorance they dipped their hands and of those of the clans of the Banū 'Adi bin Ka'b into this cup of blood thus signifying with steadfastness their readiness for bloodshed and war.⁸

The Prophet receives the Light and his followers increase

Because of his God-fearing nature, the Prophet used to retire to the Cave of H̄irā and there offered prayers to the Almighty—the only 'Light of Nature.' It was here in his fortieth year, that the mantle of Prophethood fell upon him and *he received the, "Light"*. His wife—Hadrat Khadija—at once accepted the *Light of Islām* and she was followed by Abū Bakr, 'Ali, Zaid and a number of other followers such as 'Uthmān bin 'Affān so that the number of his followers in no time reached forty.⁹ This began to perturb the heathen Quraish and there was no meeting in which

⁸ *Tarīkh i-Tabārī*, Vol. I, Part III, translated in Urdū by S. Ibrāhīm M. A., Hyderabad, p. 52.

⁹ Ibn Hishām gives the full list, pp. 83—85.

the growing power of Islām was not discussed.¹⁰ The Muslims dared not offer prayers *openly* for fear of growing opposition. However, for three years the Prophet preached *his religion of peace secretly*. But when he began to do it publicly, the Quraish at once felt infuriated and they approached his uncle Abū Tālib to refrain the Prophet from reviling their gods and condemning idolatry. When Abū Tālib advised the Prophet to refrain from such activities, he received the prompt reply that '*if these people would place the sun on my right hand and the moon on the left, even then I would not give up my work until God fulfils it or I die in its pursuit.*'¹¹

The First *Hijrat* in Islam to Abyssinia

When, however, the Quraish found that the activities of the Muslims could not be abated, they decided on their heartless persecution¹². and the Prophet was forced to advise them to leave for Abyssinia. *Eighty-one Muslims* thus said good-bye to their hearth and home simply because they had got the 'Light' which they could not forsake for an exchange of worldly life.

10 Ibn Khaldūn, p. 24.

11 Ibn Hishām, p. 86

12 For details of the horrible persecution See *Usdul Ghabah* under Khabbāb, Bilāl, Khālid bñ Sa'īd and Naufal. Also Ibn Hishām, p. 88.

Conversions Go On and Prayers Offered Publicly

However, in spite of growing opposition, Islām went on gaining converts after converts and even Hamza and 'Umar became Muslims. 'These conversions,' writes Muir, were a real triumph of Mahomet. Hamza and 'Umar both possessed, with great bodily strength, an indomitable courage which added to social position, secured an important influence at Mecca.' Muslims now began to offer public prayers at the Ka'ba.¹³

The Covenant of Tyranny

This open challenge alarmed the Quraish beyond imagination and *all of them* gathered together and *all of them unanimously* made a written Contract under which they decided for a social boycott of the Hāshimites agreeing that *they would not marry their women nor give their own in marriage to them, nor buy aught from them; and that dealings with them of every kind should cease.*¹⁴ This written document was then hung in the Ka'ba duly sealed. This Contract or

¹³ Nicholson, *A Literary History of Arabia*, p. 157. Ibn Hishām, p. 115.

¹⁴ Muir, p. 99; Ibn Khaldūn, p. 32; Ibn Hishām, p. 49; Abul Fidā, p. 282; *Raudatus-Safā* (Oriental Translation Fund), Part II, Vol. I, p. 185.

Agreement has been called the 'Covenant of Tyranny' as distinguished from the earlier *Contract of the Hilf-al-Fudūl*. The former was a Contract for the oppressed and the latter was made to oppress : the one was an instrument of human sympathy, the other an instrument of intolerance and cruelty.

The Covenant of Tyranny Annulled

For three years the Hāshimites were put to the greatest trouble because of this boycott, but when, on the suggestion of the Prophet, that document of tyranny was examined, it was found out that it had been devoured by the insects (only 'In the name, Of Allah ! remained).¹⁵ Thus the whole opposition was set at nought and the obligation of boycott was lost. *The Covenant of Tyranny was annulled.*

Attempt of a Contract Between the Quraish and the Prophet

Soon after, however, the Prophet not only lost his wife—Hadrat Khadija—but also his uncle Abū Talib who had suffered so much because of his affection for his nephew (the Prophet).

Immediately before his death, another attempt was made by the Quraish to come to some agreement with the Prophet. Some of the well-known leaders

15 *Rāudatus-Sāfa*, p. 190.

went to Abū Ṭālib and said that after his death quarrels and contentions would arise between the Quraish and Muḥammad (Pease be on him!) and therefore it was desirable that *the Prophet should enter into a Contract* (a treaty of Peace) with them for 'ceasing injuring their religion, and on their part¹⁶ they would also 'let alone his'. Abū Ṭālib at once sent for the Prophet and when he came he said, 'My son, the nobles and chiefs of the Quraish have gathered here to make a Contract (*Mu'āhada*) with you and they agree to promote thy interests, and act according to thy behests, if thou wilt comply therewith.' The Prophet at once said, 'My uncle! it is excellent. I request them to utter only one expression and the result of pronouncing this will be that they will reign over the whole of Arabia and the whole of Persia will accept their religion.' That expression is '*There is no god but God and Muḥammad is His Prophet.*' On hearing this, they clapped their hands and said, 'O! Muḥammad wishest thou to reduce our gods *from one thousand to one*'? After this they arose and dispersed.¹⁶ The passing away of Abū Ṭālib emboldened the Quraish for further persecution, and they even threw dust and dirt and even the intestines of goats and camels¹⁷ when the Prophet was busy in prayers, but he bore all this patiently. He then went to preach

16 *Kaundatus Safā* pp. 196-97. also *Ibn Hishām*, p. 146

17 *Ibn Hishām*, pp. 145-146

to the people of Taif but was not only hooted and treated in an unbecoming manner, he was also pelted with stones and pursued by a relentless rabble.¹⁸ In this way he was forced to go back to Mecca.

The Prophet Preaches to the People of the Suburbs

Then the Prophet adopted the practice of preaching to the peoples of the suburbs of Mecca when they gathered for the performance of the *Haj* but here too he was relentlessly opposed by the Quraish and made the target of calumny and ridicule. But the Prophet undaunted by adversity carried on his mission, and it is to this sublime attitude that Muir refers in these words :

'Mahomet thus holding his people at bay, waiting in the still expectation of victory ; to outward appearance defenceless, and with his little band as it were in the lion's mouth ; yet trusting in His Almighty power Whose Messenger he believed himself to be, resolute and unmoved ; presents a spectacle of sublimity paralleled only by such scenes in the sacred records as that of the Prophet of Israel when he complained to his Master, 'I, even I only am left.'¹⁹

18. Ibn Khaldūn, p 35

19. Muir, p. 122 (1894 edition).

The Scene of Civil Society was to Shift to Medina First

However, it now became quite clear that the blind Arabs of the Age of Ignorance were not prepared to accept *the Light of Allah* and they were determined to live a life of darkness and error. They were wedded to their ancient customs and traditions and did not want to follow the Laws of Nature as they were disclosed by the Religion of Peace—*Islam*. Hence the first institution of Civil Society was not to be on the land of Mecca : it was to be in a far distant city—the City of Medina.

The First Pledge or Contract of 'Aqaba

This practice of preaching to the people of the suburbs who came for the Haj, after all, was crowned with success. The Prophet met six people of the Banū Khazraj from Yethrib (Medina) and they accepted *Islam* (that is, *made a Contract with God*²⁰) and unanimously agreed to forsake the ways of their tribe ; and when they went back, 'there remained hardly a family in Medina in which mention was not made of

20. Hobbes thus expresses himself on making a Covenant with God: "To make covenant with God, is impossible but by mediation of such as God speaketh to, either by Revelation supernatural or by his Lieutenants that govern under Him and in His name : for otherwise we know not whether our Covenants be accepted or not." —*Leviathan*, (E.L.), p. 71.

the Prophet,²¹ for they had already declared that on their return they would call their people to the principles of Islām. Next year, during the same pilgrimage, twelve people came from Medīna (of these seven were new-comers and five from those who had accepted Islām last year). They belonged to the two tribes that inhabited Medīna—ten belonged to the Banū Khazraj and two to the Banū Aus. They met the Prophet near 'Aqaba and those who had not yet accepted Islām now accepted it and all of them pledged their faith to the Prophet in these words: '*We will not worship any but God, we will not steal neither will we commit adultery, nor kill our children; we will not slander in any wise, nor will we disobey the Prophet in anything that is right.*'²²

The Prophet then said, 'If you keep this Covenant, paradise will be your lot. But if you commit any sins excepting idolatry and infidelity your pardon or chastisement will depend on the will of God. This *First Contract or Pledge* is known as the '*Pledge of Women*' 'as not embracing any stipulation to defend the Prophet, it was the only oath required of women.' However, the twelve men went back to Medīna as missionaries of Islām and with them the Prophet sent Muṣ'ab to teach the Qur'ān, that is, to call them to the Religion

21. Ibn Hishām, p. 150; Abul-Fidā, p. 287; Tabārī (Hyderabad Edition,) p. 113

22. Ibn Hishām, p. 151; Abul-Fidā, p. 289.

of Peace—Islām, and to the Divine Laws of Nature.

Spread of Islam was Destined to be in Medina

Thus it is clear that the spread of Islām or of the Religion of Peace was now to occur in a far distant city of Medina. It would, therefore, be advisable to know the condition of Medina before Islām, for though we have already read of the State of Nature as it prevailed in the whole of Arabia, we have not yet specifically stated *the condition of Medina* before the Light of Allah dispelled the all-pervading darkness.

The State of Nature in Medina

From the First Pledge of 'Aqaba and its provisions it is evident that the worship of idols, stealing, adultery, infanticide and slandering were prevalent in the people of Yathrib (Medina) also and hence they made a Covenant with the Prophet of God that henceforward they would abstain from those practices. Thus socially and morally, this part of Arabia was as low in the scale of civilisation as any other part of that country.

The Political Condition

Politically, however, besides the Arab tribes, the Jews had settlements round about Medina, and the Banū Nadir, the Banū Quraīṣa and the Banū Qainūqā were their chief tribal settlements. They had even taken possession of the old city of Yathrib (Medina)

and 'had built for themselves strong castellated houses capable of resisting armed attack.

In the 4th century, several Arab tribes had migrated from Yeman²³ towards the north, and they had gained a footing in Medina, thus supplanting the Jewish control in that city. They were divided into two clans—the Aus and the Khazraj, and both of them had developed strong enmity against the Jews. But, according to the general condition of Arabia, they themselves *could not live at peace* and were in the beginning of the 6th century in a state of 'Chronic'²⁴ enmity, if not actual warfare with one another. Only four or five years earlier, 'hostilities had reached a crisis between them. Each was reinforced by allies from other Arab tribes ; the Jews were divided, the Quraīṣa and the Nadīr siding with the Banū Aus, the Qainūqā with the Khazraj.

In the year 616 A. D. there was fought the great battle of Bu'āth. This battle, like the so-called hundred years' war of Europe was a culmination of hostilities which had been going on for the past *hundred and twenty years*. At first the Aus were worsted, but later on 'they dispersed the Khazraj with great slaughter. The Banū Khazraj were humbled but not reconciled. No open engagement after this took place, but numerous assassinations gave token from time to time of hardly

²³ Abul-Fidā, p. 187.

²⁴ Muir, *Life of Mahomet*, p. 111 (1894 Edition)

suppressed ill-blood.' 'No one yet appeared bold enough to seize the reins of government ; the Citizens, both Arab and Jewish, lived *in uncertainty and suspense*.²⁵

The State of Nature in Medina Compared with that of Locke especially

Thus in Medina also there had been prevailing the State of Nature as Hobbes pictured it and in the words of Wellhausen²⁶ it was a state of "hideous anarchy, conjured up by blood feuds, which prevailed in Medina before the coming of Mohammed...Life was then indeed impossible." But *at the time of the First Pledge of 'Aqaba* as has just been said there was, what Muir terms, grave 'uncertainty and suspense.' This means that there was a sort of armed peace and 'enjoyment of life or property' was 'very uncertain and constantly exposed to the invasion of others.' Thus everything was 'very unsafe, very insecure.' Apparently, therefore, it seemed that there was *peace, goodwill, mutual assistance and preservation* because it was a state of equality—and of liberty of each individual ; in fact, however, men had become tired of that suspense and uncertainty and they were ready to quit that condition, 'which, however free, was full of fears and continual dangers' This meant that *self-love* and passion and *heat of controversy easily* turned that life

25 Muir, pp. 112-13.

26 *The Historians' History of the World* Vol:VIII P. 291.

of apparent peace into one of *enmity*, *malice*, *violence* and *mutual destruction* and revenge carried everybody too far. Thus confusion or disorder was the rule, and men living together in this State of Nature lacked :

1. A settled known Law ;
2. A known and indifferent judge with authority to determine all differences according to established Laws ; and
3. The supreme power to maintain order²⁷—again, in the words of Wellhausen, ‘There are neither officers nor officials, neither jailors nor executioners. There is no magisterial authority, no sovereign power with a revenue of its own drawn from taxation and an independent administration by official organisation.²⁸

The Acceptance of Islam or of the Laws of Nature in Medina

Hence the necessity of an orderly government was keenly felt by the individuals of Medina. But how could unity be brought about for they could not accept the sovereignty of any *individual* from either tribe—

27 This picture of Medina which I have presented in Locke's language, is a more faithful picture of the State of Nature of Locke for it saves him from the inconsistencies and contradictions that he has made in his account. See Locke, *Civil Government* (E. L.) Ch. III, pp. 126-27.

28 *Historians' History of the World*, p. 286.

the Aus or the Khazraj? Nor had they accepted the Jewish faith, though they had heard from them that a Prophet was soon to arise to establish the Kingdom of God again "to make a permanent peace."²⁹ Thus, when *six* of them went to the Annual Pilgrimage to Mecca, they met the much heard of Prophet himself and accepted Islām, that is, they made a *Contract* with him in the acceptance of the formula that '*there is no god but God and Muhammad is His Prophet*.' These people, as we have already seen, then went back to Medina and next year *twelve* people made a similar Contract with God and His Prophet of accepting Islām —the religion of peace. Thus on their return Islām began to be accepted by the different *individuals* of the State of Nature in Medina. This means that they also said good-bye to the law of the sword that had always existed in that City and they at once accepted the Divine Laws of Nature as they were given out by Prophet Muhammad (Peace be on him!).

Comparison of Locke's Laws of Nature in the State of Nature and of Islam in Medina

Thus the State of Nature in Medina had no Natural Laws in Locke's sense which were understood and apprehended by every one's reason, though there were *news* that such laws were going to be promulgated soon by a New Prophet. From this comparison of Locke's

29 Margoliouth *Mohammedanism*, p. 54.

State of Nature and of the condition of pre-Islāmite Medina, it is evident that by recognising the Laws of Nature in the State of Nature, Locke had given a moral tone, and therefore he had no justification left for the people to quit the State of Nature (as it was one of peace) and create a Civil Society which was in no sense an improvement upon it. *It was without doubt a fall.* In the words of Vaughan "Neither materially, nor morally is there any marked barrier between his natural and his civil state. Neither materially nor morally, therefore, is there any sufficient motive for the individual to go to the cost and trouble of removing such slight fences as divide them. He already possesses, already owes allegiance to the 'Law of Nature': a Law which, on Locke's showing is at least a very tolerable substitute not only for the Law of the Land, but even for the Gospel."³⁰

However, about the coming of the Prophet, the individuals of Medina had already heard and hence when he came, *they individually agreed* (contract of acceptance of Islām is always made by *every individual*) to accept the Divine Laws of Nature and quit that condition of insecurity and uncertainty.

The Social Contract in Medina of Locke's Type

In Locke, when the people decide to quit the State

³⁰ Vaughan, *Studies in the History of Political Philosophy*, Vol. I, p. 186.

of Nature *each individual* from amongst them unites with others for the *preservation of life, liberty, and property*, and thus by this Social Contract they create a Community for peace, safety and public good of one and all. Similarly, after the First Contract of 'Aqaba with God and His Prophet, Muṣ'ab had been sent to teach the Qur'ān, and as we shall see now, the majority of the various tribesmen had already accepted Islām. Thus, out of the scattered individuals of two hostile tribes of Aus and Khazraj, they were now becoming *compacted as individuals* of one *community of Muslims*. But still they were *individuals* as they had also remained in Locke even after the Contract, for in spite of their Common Islām they could not yet tolerate the idea that they should be led in prayers by either an Ausite or a Khazrajite. Hence Muṣ'ab not only taught them the Qur'ān: he led the prayers and thus kept in abeyance the rivalry of the State of Ignorance.³¹

Spread and Dominance of Islam in Medina

We have already said that after the First Contract at 'Aqaba, the twelve Muslims with Muṣ'ab went back to Medina as missionaries of Islām and when they began calling people to the Religion of Peace, so zealous was their propagation that 'the new faith spread rapidly from house to house and from tribe to tribe.'³² 'In

³¹ Ibn Hishām, pp 151-52; also Muir p. 116.

³² Ibn Khaldūn, p. 49; Muir, p. 115; Raudatus-Saīd, p. 225

spite of the jealousy of the tribe of Aus towards Khazraj, by the energy of the learned Muṣ'ab, whom Mohammed sent to Medina as his forerunner and as reader of the Holy Qur'ān, Islām soon obtained a firm foothold in the City, so that two years later his adherents could venture to invite the Prophet to visit them.³³ Thus says Muir, 'the Jews' looked on in amazement. The people whom for generations they had vainly endeavoured to convince of the errors of heathenism were now of their own accord casting their idols to the moles and to the bats, and professing belief in the one true God,³⁴—the only Light of the Heavens and the Earth, or of all creation,

Second Contract at 'Aqaba

However, in the month of Haj next year, Muṣ'ab along with certain Muslims and the unbelievers of Medina again went to Mecca. Among the Muslims³⁵ there were 73 men and two women (62 of the Banū Khazraj, 11 of the Banū Aus). The meeting with the Prophet

33 *Historians' History of the World*, p. 47. For Muṣ'ab's detailed activities, *Rāudatus-Safā*, pp. 223-25; Abul-Fidā, p. 289; Ibn Khaldūn, pp. 41-42, Ibn Hishām, pp. 152-53.

34 Muir. p 115.

35. Abul-Fidā, p. 29. According to Tabārī there were only 70 men including 2 women (p. 118) but according to Ibn-Khaldūn there were 72 men and 2 women (p 44) We have adopted the version of Ibn-Hishām, p. 154. See also Muir. p. 125

was again arranged secretly³⁶ at 'Aqaba and there he reached at the appointed time with his uncle 'Abbās (who had not accepted Islām by that time). When all were seated, 'Abbās thus began addressing them, 'You men of Banū Khazraj ! You know it full well that Mohammed lives amongst us in honour and safety, and we are his protectors against his opponents. But he prefers to leave this City and seek protection with you. So if you see the consequences of what you are going to do and feel that you will be able to defend him against his enemies, *then give the pledge*; but if you doubt your ability, you must at once give up the idea, for up to this time Mohammed is under our protection and in that case, I fear, you may hand him over to his enemies'. On this Barā' one of their leaders replied. 'We have listened to your words. Our resolution is unshaken: our lives are at the Prophet's service. It is now for him to speak and take whatever promise he takes from us.' The Prophet then began by reciting the Holy Qur'ān, and inviting all present to the service of God said, '*I want to take such a pledge from you* that you protect me in the way you protect your wives and children.' On this Barā' got up and *taking the Prophet by the hand pledged to defend him* in the way they defended their wives and children, *and then followed the noise from*

³⁶ The details of this secrecy have been well given by Tabari.

*those present for individual 'bai'at' (Pledge) even at the cost of life and property.³⁷ Thus was the Second Contract³⁸ made at 'Aqaba (the women pledging only in the words used in the First Contract and the men in addition pledging for defence and protection of the Prophet) and 'their treaty (Contract) was ratified by the people (of Medina), who unanimously embraced the profession of Islām.³⁹ The Prophet appointed twelve leaders from amongst them (9 from Khazraj and 3 from Aus) and addressing them said, "I appoint you as the Sureties (*Kafil*) of your people just as the apostles (*Hawāri*) of Jesus were, and I am the Surety of you all."⁴⁰*

Another Version of Contract

Besides this, another version of this Second Con-

37. Muir gives all these proceedings on pp 125-26 (1894 Edition). Also Ibn-Hishām, p. 155. Abul-Fidā, p. 292. Ibn Khaldūn, p. 43.

38. With this object seventy-three believers journeyed to Mecca, and in an assembly held at night on the same hill of homage they *made a covenant with Mohammed—Historians' History of the World* p. 117.

39. *Cambridge Modern History*, p. 357; Also See *Tafsīr Muwāhibur Rahmān*, *Sūra-i-Baqr*, p. 62. Even women made a contract (*bai'at*) with the Prophet on Islām. Thus Um-'Atī'ah herself declares that she made a contract with the Prophet on Islām (*Bukhārī Kitābūs Salāt*). Also Um 'Atiyya says 'At the time of contract the Prophet had taken our word that we won't weep and wail over the dead and this contract was not fulfilled except by five-women—Um-Salim, Um 'Atī'ah, wife of Mu'ādh, and two others. (*Bukhārī-Kitābūs Salāt*.)

40. Ibn-Hishām, p. 155; Ibn-Khaldūn, p. 44.

tract has also been given by the *Raudatus-Safā*⁴¹ and that too is interesting from the point of view of the study of the Contract theory. According to this version, 'Abbās had said to the assembly, 'O ye tribe of Khazraj and of Aus, Mohammed is my nephew, and I love him most of all creatures. If you believe him, place faith in him, and if you desire to take him with you, *I want to establish a Covenant between you*, so as to pacify my mind and to preserve him from injury and harm during his exile, especially as the Jews, who are your neighbours, harbour enmity towards him, and I fear their cunning devices against him.' On this Sa'd bin Zarārah stood up and among many other things addressing the Prophet said, 'We are a people aware of our dignity, and no one could rule or govern us *except one of our number*. How much less could a man do so who has been abandoned by his own tribe and from whom his own relatives have withdrawn their hand of protection? We have, nevertheless, in good faith, *of our own free will*, concluded to submit to thee... *We assent to follow thee, we promise to, and make a covenant with God*. Who is thy and our Creator, and Whose power is above all powers, that we shall sacrifice our lives for thine and shall protect thy body in the same manner as we guard the bodies of our children and wives. We know that if we keep *this Covenant* we keep our faith towards Allah the

41. *Raudatus Safā* pp. 227-32

Most High, and we will become partakers of eternal felicity, and that if we break this promise, we break our faith towards Allah the Most High, and will be of the number of the damned. O Apostle of Allah, these words of ours are true, so help us God.' Then turning to 'Abbās he said that *they were ready to make any agreement or covenant he liked*. On this the Prophet said, '*The conditions of our Covenant with reference to the Creator* are : that you worship Him alone and attribute to Him no companion ; and *with reference to myself*, they are that you protect me in the same manner as your own lives, those of your children and women.' The assembly then said, 'O Apostle of Allah, *we assent to what thou hast said*.' '*When the Covenant was established*' the Prophet then selected the twelve leaders already noted above.

The Contract of Assassination among the Quraish and the Flight of the Prophet

The news of this Pledge soon spread to Mecca and it made the Quraish furious. They made up their mind to vehemently persecute the Muslims. On this the Prophet advised his followers in Mecca to emigrate to Medina, and within two months, they settled in their new abode, with their families. The Quraish were thus paralysed by a movement which though unnoticed and suddenly planned, made their several quarters deserted. They at once met in the *Nārul-Nadwā*

(Council Hall) and began to plan the imprisonment, the assassination or the expulsion of the Prophet. They ultimately agreed (*made a Contract among themselves*) that a youngman of *each clan* be selected and all of them should at once attack and kill the Prophet. In this way no blood feud would be raised by the Hāshimites as they would dare not oppose all the clans put together.⁴² But before they could act on their decision, the Prophet had already left his place and had sought refuge with his bosom friend Abū Bakr in the *Cave of Thaur*. There they lived for three days and then made off to Medina. This is known in Islām as '*Hijrat or Flight* and it is from this that the Muslim year begins.

The Prophet's Reception at Medina like a Triumphant Prince

After eight days of tiresome journey, the Prophet and his companion reached Qubā safely where the people (of the Aus tribe) had been expecting him morning and night. As soon as he was sighted, a thrill of joy spread all over the City. 'The converts from all quarters flocked to Mahomet and *made obeisance to him*.' He received them courteously and said 'Ye people ! Show your joy by giving to your neighbours *the salutation of peace, send portions to the poor*,

⁴² Ibu Khaldūn, pp 47-48 . Ibn Hishām pp 169-70

*bind close the ties of kinsmanship, offer up prayer whilst others sleep. Thus shall ye enter paradise in peace.*⁴³ After four days, the Prophet started for Medina and when he entered the city, he *found tribes and families ready to honour him. As 'the people of Medina received Mohammed with joyous enthusiasm, his entrance into the town resembled that of a triumphant prince rather than a poor fugitive.'*⁴⁴ Muir also thus draws the picture of the Prophet's reception.

"The tribes and families of Medina came streaming forth, and vied with one another in showing honour to their noble visitor. It was indeed a triumphal procession. Around the camels of Mahomet and his immediate followers, *rode the chief men of the city* clad in their best raiment in glittering armour. The cavalcade pursued its way through the gardens and palm groves of the southern suburbs; and as it now threaded the streets of the City, the heart of Mahomet was gladdened by the incessant call *from one and another* as they flocked around: 'Alight here, O Prophet! We have abundance with us, means of defence and weapons and room. Abide with us.' So urgent was the appeal that sometimes they seized hold of Al Caswa's halter. Mahomet answered them courteously and kindly: 'The decision,' he said, 'rests with the Camel; make way for her; let her go free.' It was

⁴³ Muir, p. 162 (1894 Edition.)

⁴⁴ *Historians' History of the World*, p. 118.

a master stroke of policy. His residence would be hallowed in the eyes of the people as selected supernaturally, while the jealousy which otherwise might arise from the quarter of one tribe being preferred to that of another would thus receive decisive check.⁴⁵ However, the camel halted at an open yard and the Prophet stayed with Abū Ayyūb whose house was the nearest. There he stayed in the lower story for the convenience of those who used to visit him, and 'dishes of choice viands, bread and meat, butter and milk, presently arrived from various houses and this hospitality was kept up daily so long as the Prophet resided in the house.'⁴⁶

Conquest of Medina by *Al-Qur'an*

Thus was Medina conquered by the Prophet. As he himself said in a tradition '*All cities or districts were conquered by force, but Al Medina was conquered by the Qur'an.*'⁴⁷ And certainly it was the Qur'an that conquered it. It was a *conquest of heart* rather than of territory, and the means was the *willing consent of the people rather than the sword of the conqueror*.

⁴⁵ Muir, p. 164 (1894 edition). For further interesting details, Ibn Hishām, pp. 175-76; Ibn Khaldūn, p. 52; Abul Fidā, p. 300; *Raudatn-Safa* pp. 250-51.

⁴⁶ Muir, p. 165, *Raudatn-Safa*, p. 251. The Prophet lived in this house for seven months.

⁴⁷ Al-Balādhuri, *Futūhul-Buldan* (Hitti's Translation), p. 21.

And the Contract, which gave this *consent*, had taken *three* steps in its fulfilment.

In the first, the laws of Islām which were the Divine Laws of Nature were explained and promulgated; in the second the representatives of the two chief tribes entered into a definite covenant of protecting the Prophet; and in the third, each citizen, nay every child, of Medina welcomed the Prophet as their saviour.

Religiously considered, therefore, the Kingdom of God was thus established in a land of darkness and error, and heathenism or idolatry vanished with the onslaught of the Light of Islām.

Socially and politically considered, the State of Nature with its state of war or, at least, of uncertainty and inconvenience was done away with by the acceptance of the Laws of Nature, and the Contract with the Prophet at once transformed that state into one of Civil Society.

"In the State of Nature," says Gibbon, "every man has a right to defend, by force of arms, his person and his possession: to repel, or even to prevent, the violence of his enemies, and to extend his hostilities to a reasonable measure of satisfaction and retaliation. In the free society of the Arabs, the duties of subject and citizen imposed a feeble restraint; and Mahomet, in the exercise of a peaceful and benevolent mission had been despoiled and banished by the injustice of his countrymen. The choice of an independent people had

*exalted the fugitive of Mecca to the rank of a sovereign ; and he was invested with the just prerogative of forming alliances and of waging offensive or defensive war.*⁴⁸

The City State of Medina

Thus if the City State of Medina was the Kingdom of God in one sense and the Prophet was the Vicegerent of God in that Divine Kingdom, it was also in another sense a true state of the people created by the people themselves, and the Prophet was an *elected* sovereign of a sovereign people.

To summarize the whole of our survey, we may now say that :

1. The state of Nature in Medina also was a state of war but immediately at the time of the First Contract, there was apparent peace, and therefore, it most truly resembled Locke's picture of the State of Nature.

2. The Laws of Nature—of Islam—brought the individuals together into a Contract (with God) ; that is, they accepted Islām and hence a Community of Muslims was created, though that community was not yet *organic* in nature.

3. The absence of a well-known authority or Judge was then provided for by the Second Contract

48. Gibbon, *Decline and Fall of Roman Empire*, Bury's Edition, pp. 358-59.

with the Prophet, and this Contract was then ratified by the whole community. This was a Governmental Contract. The Prophet thus became an elected chief of a people and he appointed their own leaders to look after them.

How the Second Contract resembles the Contract of Hobbes

After this, we may now compare the character of this Second Contract from the point of view of Political Philosophy. From what we see of the addresses of 'Abbās, Barā' and the Prophet, it becomes quite clear, that while Barā' pledged to protect the Prophet with life and property, *the Prophet himself (in the worldly sense) promised nothing*. That is, *the Prophet in the literal sense of the Contract of give-and-take, was not a party to the Contract and the Contract was only one-sided*. This means that after the Contract, and after its ratification by the people of Medina they got pledged to protect their elected 'Sovereign' and they had agreed to obey him in everything. From this point of view, it becomes clear that this Second Contract resembled the Contract of Hobbes in which the Sovereign had promised nothing and yet he was to be obeyed absolutely. There was to be no rebellion because it would again result in the State of Nature from which they had run out for the law and the religion of peace.

Would it then be too fantastic on my part, I again

ask, if Hobbes (as well as other Social-Contract writers) had this condition of Arabia in view, and that they were only interpreting things and events which were already past history?

Another Interpretation in Locke's Sense

Besides this interpretation, there can be another interpretation of this Second Contract in the sense of Locke, if we take into account another 'report' regarding the proceedings of that contract. When that contract was going to be made Abul Hāshim (one of those present) said to the Prophet, "O Apostle of Allah, between us and the Jews there are treaties and alliances, but if we break them, and Allah the Most High grants thee victory, thou wilt possibly rejoin thy tribe, and abandon us to our foes." His Lordship smiled and said, "Blood is blood, and destruction is destruction. You are mine and I am yours. I shall fight those who fight you, and make peace with those with whom you make peace."⁴⁹

Thus it is clear, that if after the First Contract at 'Aqaba, the Muslim Community was created in Medina (this resembles the Social Contract of Locke), by the Second Contract *a governmental Contract* was made by which the Prophet became the chief authority of the City-State of Medina. In one point more, the

⁴⁹ *Raudatus-Safa* pp. 229-30. Also *Tabari* (Hyderabad Edition), p. 117

resemblance of the events in the Second Pledge can be made with those on which Locke's Contract was based. It is argued that Locke wanted to justify the Glorious Revolution of England in which William and Mary had been called from Holland (by seven notables of London). The Prophet was also a non-party man in Medina and he was called by 73 men to their land and then their contract or pledge was kept up by the people.

Second Contract in Locke

This Governmental Contract in Medina resembles, no doubt, the Second (Governmental Contract) in Locke, but critics do not agree as to the making of a Second Contract in that writer. Thus Vaughan emphatically asserts (and I think he is right) that there is only *one* contract in Locke—the Social Contract which creates the community. He observes 'it has often been said that Locke represents the relation between the Community and the Executive as one of Contract : the 'original contract between King and people' of the famous convention resolution of 1689. This may not be very far removed from the spirit of his doctrine, but it is doubly wrong as to the letter. For, on the one hand, the appointment of the Executive is apparently conceived by him as belonging normally not to the Community, but to the Legislature. And, on the other hand, what is far more important, he never once

uses the term *Contract* to describe the instrument from which the Executive derives its authority. It is always a trust, or a *fiduciary trust*.⁵⁰

Hence, if according to this argument there is only one contract in Locke, the two contracts in Medina bear resemblance to the two Contracts in Milton and Althusius and other anti-monarchist writers though the purpose of their contracts was not the same. But the Social Contract of Medina does not fully accord with the First or Social Contract of Althusius or of Milton for in them even the king was a party to the Original Contract (which is of course not true of Medina, for the Prophet was still in Mecca when the Social Contract was made in Medina). Hence the two Contracts of Medina wholly and fully accord with the *framework* (and not the spirit or purpose) of the contract theory as it was stated in *Vindicia Contra Tyrannos* which was formerly ascribed to Brutus or to Languet, but

50. Vaughan, Vol I, p. 145. Also see Lord, *Principles of Politics*, pp. 53-54: 'He appears to think, though he does not say so quite explicitly, that it rests upon two contracts. The first puts an end to State of Nature and erects a Civil Society in its place: by the second that society delegates its sovereignty to certain persons, namely, the King, the House of Lords, and the House of Commons in order that they may carry into effect the provisions of the Original Contract. Locke thus revives in all essential respects, the doctrine of Althusius and Milton. The first Contract founds a society and the second institutes a government. The first is the Social Contract, the second is the Fundamental Law of the State. See also Willoughby, *The Ethical Basis of Authority*, p. 192.

is now understood to be the work of Mornay (1579). Mornay in this book has two contracts :

1. The First Contract is between *God on the one side and people and their ruler on the other side for maintenance of true religion*. It was upheld by the state in return for the protection and favour of Almighty God.

2. The Second Contract is between ruler and subjects to preserve and protect the natural rights of subjects in return for their loyal support of the Prince.

How the Contracts in Medina Resemble the Contracts in *Vindicia Contra Tyrannos*

The first of these contracts is true of the Social Contract of Medina also for the people whose representatives had already accepted Islām at the hands of the Prophet himself had now accepted Islām at the hands of Muṣ'ab who was the representative of the Prophet at Medina. This was certainly a Contract of the ruler and the people with God to maintain the right religion which was Islām. The Second Contract was made by the Prophet with the peoples' representatives and when he reached Medina the whole Muslim Community ratified the 'bai'at' (pledge or contract) that had already been made and the Prophet declared, as has been already noted above, that he was heart and soul with the people of Medina for they had declared to support him in thick and thin and he was

also prepared to fight with their enemies as his own enemy.

Social Contract A Historical Reality

Thus from the above account of the Contracts at Medina it is clear that *the Social Contract theory is not a mere fiction : it is a historical reality* and Ancient Arabia was the scene of such contracts even in the making and the construction of the state itself. *The contracts in Medina do explain not only the origin of Civil Society in Contract but also of its Government. Contract in Islam, therefore, is a reality and not a mere fiction or only a mere idea of reason.*

CHAPTER IV

THE CIVIL SOCIETY IN ISLĀM

The making of the Civil Society in Medina

Having seen the State of Nature and the Social and Governmental Contracts in Medina, we now turn to the Civil Society. Here we shall try to see how the individualism of the State of Nature which was replaced by the acceptance of Islām by a Community of Muslims soon gave way to an *organic* conception, that is, the individuals who had accepted Islām were yet *individual Muslims of Aus and Khazraj*, and they had not yet begun to think in terms of a common community and, before the coming of the Prophet Muhammad (Peace be on him), the Community of Muslims was *like the joint stock company of Locke*. *It was like a bundle of sticks* which is tied up by a common rope, but every stick keeps up its identity separately. The only common bond of the people of Medina was no doubt acceptance of Islām, but *as yet they had not forgotten their individuality*. The whole conception, yet, was arithmetical : it was in no sense *organic*.

The First Task of the Prophet

It was, therefore, the first task of the Prophet to unite these scattered elements into an organic whole, and

to this task he at once turned his attention. Says Wellhausen, 'The first Arabic Community with sovereign powers was established by Mohammed in the City of Medina, not upon the basis of blood which naturally leads to diversity, but upon that of religion which is equally binding on all.'¹ Margoliouth also affirms the same thing when he says that 'in the new Community all tribal differences were to be sunk, and the theory of the Platonic Republic, according to which the members of the community should share pains and pleasures to the same extent as the members of one body, is attributed to the Prophet.'²

The Building of the Mosque—A Step towards Real Community

Thus the first care of the prophet in Medina was to build a Mosque for which he bought a plot of land, though every man offered his land and house free of any charge for the purpose, but the Prophet did not accept them.³ In the construction of the Mosque all worked with the greatest enthusiasm the more so because the Prophet himself was working with them,⁴ and they 'chanted with loud and cheerful voice as they bore along their burdens :

1. *Historians, History of the World*—Article by Wellhausen
p. 291.

2. Margoliouth, *Mohammedanism* p. 75.

3. Al Baladhuri, (Hitti's Translation), p. 19

4. Ibn Khaldūn—p. 58; Raudatus Safā, p. 251.

O Lord ! there is no joy but the joy of Futurity
 O Lord ! Have mercy upon the Citizens and the
 Refugees.⁵

In this way, the elected President of Medina gave practical proof of the fact that he was but *the First Citizen* ; and the Prophet showed that he was only like an ordinary mortal, and because he was the representative of God, he had to prove and justify himself as the '*First Muslim*'—as *the first servant of God*. *Thus for the first time* in the history of Medina (and even of all Arabia) the people began to meet on a footing of absolute *equality* in the Mosque five times a day. *A New Community had grown up out of heterogenous and individualistic elements*, and as the above couplet has shown, the tribal differentiation of Aus and Khazraj was done away with, for the Citizens of Medina began to be called *Ansār* or Helpers, and the people who had migrated and settled from Mecca with the Prophet were called *Mahājirin* or Refugees.

The Covenant of Brotherhood

But still, in the beginning, a greater attachment in *the Muslim spirit of brotherhood* was necessary between the *Ansār* and the *Mahājirin* for the latter were still no more than mere guests of the *Ansār* as they had forsaken everything of their own—house, wealth

5. Muir, *Life of Mahomet* (1894) Edition, p 168 ; Ibn Hishām, p. 176.

and other property—at Mecca for the sake of God and their faith. They were, therefore, entirely illprovided and ill-provisioned. The Prophet at once created a new *Tie of Brotherhood* ('aqd-i-Muwākhāt) between the Anṣār and the Mahājirin. 'Become brethren every two and two of you' such ran the command of the Prophet; and he himself 'set the example by taking 'Alī or as others say Uthmān, for his brother. Accordingly each of the Refugees selected one of the Citizens as his brother. The bond was of the closest description, and involved not only a special devotion to each other's interests in the persons thus associated, but in the case of death, the 'brother' inherited the property of the deceased.⁶ This covenant or Contract lasted only upto the Battle of Badr after which inheritance was allowed to be based on the law of

6. Muir (1894 Edition) p. 167; Ibn Khaldūn, p. 62, Abul Fidā, p. 301

Rādātūs Safā notes that this brotherhood was created between 47 Mahājirin and 45 Anṣār (p. 261).

The Translation of Zāidān (named as Tamaddun-i-Islām, Part I by Shaikh Ghulām Muhammād) that I possess gives one more Contract which I do not find in other books. Before the creation of this Fraternal Contract, the Prophet had brought about a written Contract between the Anṣār and the Mahājirin in which they had declared themselves to be one nation (Qāum) (p. 47). It was after this Contract of one *nationhood*, that brotherhood between two and two was made. Zāidān says that this contract occurs in Ibn Hishām in full but my translation has omitted all that part of it. But such a Contract seems to be feasible because in the Contract with Jews Muslims are treated as *one community or nation* (Qāum).

consanguinity as laid down in the Holy Qu'rān.⁷ This Contract of Brotherhood makes it definitely clear that while the Contract of Locke was meant for the *preservation* of property, the Islamic Contract was based on the idea of the *sacrifice of property* and this sacrifice was done with the greatest sincerity.

Contract with the Jews

After thus providing for the two urgent needs of the hour, the Prophet turned his attention to the condition of Medina itself, where another element could not be ignored. These were the Jews of the three tribes Banū Nadīr, Banū Quraiza and Banū Qainūqā' who were not prepared to accept Islām. They came to the Prophet and said, 'We have come to make a treaty of peace with thee, to the effect that we shall be neither for nor against thee, that we shall aid no one against thee, nor injure any one who aids thee ; on condition that thou injureth neither us nor our friends until we learn what becomes of thy affairs and of those of thy people.'⁸ The Prophet, 'complied with their request on condition that they would afford aid to no one against him ; nor against any of his companions, neither by word, arms, or cattle, neither openly nor

7. *Raudatus Safā*, p. 261.

8. *Ibid*, pp. 255-56.

secretly.⁹ They took God to witness that, in case they should fail to keep this *agreement and covenant*, his Lordship would be at liberty to shed their blood, to confiscate their property as well as to capture their wives and children. A treaty was written for each tribe.' Thus, the prophet associated the Jews in a Contract or 'Treaty of Mutual Obligation drawn up in writing between the Refugees and the Believers of Medina on the one hand and the Jews on the other, confirming the latter in the practice of their religion and in the secure possession of their property.'

9. This must be pointed out that in spite of all efforts to win over the Jews, they could not be reconciled and from the very beginning were always bent on mischief. Even the Holy Qur'ān refers to their adverse activities in a clear manner, for what they could not tolerate was the unification of Aus and Khazraj into one community under the leadership of the Prophet. One Shammās bin Qais (a Jew) sent a mischief monger in a meeting of Aus and Khazraj with instructions that he should recall the events of the battle of Bu'āth. As soon as couplets regarding that battle began to be recited the extinguished fire of hostility and revenge was rekindled and it took no time to move from verbal hot exchange of words to actual fight and hostility, when the Prophet, on hearing of what was going on, at once appeared on the scene and addressed them to fear God and *not to go back to the state of ignorance out of which God had taken them out*. On this, they threw away their implements of war and began to weep and embrace each other. Thus was the unity of the Islāmic Community maintained on the firm grip of the rope or 'Covenant' of God. (For further details, see the Holy Qur'ān translated by the late M. Mahmūdul Hasan And M Shabbir Ahmad 'Uthmānī.' PP. 80-81).

First Charter of Toleration

This agreement was, therefore, the *First Charter of Religious Toleration* in the history of man's political development. It has been preserved in full by Ibn Hishām¹⁰ and is a lengthy document. It begins thus: 'In the name of God, the Compassionate, the Merciful. It is a *Covenant* ('Ahad-*Nāma*) of Muḥammad the Prophet of God, on behalf of the Believers of Quraish and Yethreb (Medina) and those that are under them¹¹ and those that may join them and strive with them for the faith. Verily, they form a *Community apart from the rest of mankind*.'

Muslims as one Community

Thus the opening words definitely tell us that the Muslims were now a Community and the Holy Qur'ān refers to this unity in these words: 'Surely this your community is *one* Community and I am Your Lord, Therefore be careful (of your duty) to Me.' 23: 52. Wellhausen has expressed this aspect thus: 'The Community, at the head of which God stands, and the Prophet as God's representative, has power to deliver the shedder of blood over to the avenger, and

10. Ibn Hishām, pp. 179-180; Ibn Khaldūn, pp 53-61, also Muir, pp. 177-78, and Amir 'Alī's *Spirit of Islam*, pp. 54-55.

11. 'Those under them' means those unbelievers or waverers in Medina who had not yet accepted Islam but were a hopeless minority.

it is the duty of the Community to see that this is done,¹² and in this Covenant, as we shall see noted below, it is specifically stated that if a man kills a Muslim wrongfully, *the Muslims shall join as one man against him.*

Other Clauses of this Covenant

The other clauses of this Covenant may now be given in brief, to make the above statements clear

(i) The Refugees and the Believers of Medina shall defray the price of bloodshed among themselves (respectively) and shall ransom honourably their prisoners.

(ii) Whoever is rebellious or seeketh to spread enmity and sedition, the hand of every man shall be against him, even if he be a son.

(iii) No Muslim will kill a Muslim for an unbeliever and no unbeliever will be helped as against a Muslim. And verily, Allah's *protection is meant for one and all. The believers are pledged to protect each other against all others.*

(iv) Whosoever of the Jews followeth us, shall have aid and succour; *they shall not be injured, nor shall any enemy be aided against them.*

(v) No unbeliever shall grant protection to the people of Mecca, either in person or property, nor interpose between the believers and them.

12 *Historians' History of the World* p. 291

(vi) Whosoever killeth a Muslim wrongfully the Muslims shall join *as one man* against him.

(vii) The State of peace and war shall be common to all Muslims ; no one among them shall have the right of concluding peace with, or declaring war against, the enemies of his coreligionists.

(viii) The Jews who attach themselves to our Commonwealth shall be protected from all insults and vexations : they shall have an equal right with our people to our assistance and good offices.

(ix) The Jews shall contribute with the Muslims and join with them in defending Medina against a common enemy.

(x) The Jews of the various branches of 'Awf, Najjär, Harith, Jashm, Tha'laba, Ans and all others domiciled in Medina shall form with the Muslims *one composite nation* i. e., one people with the Believers.

(xi) *The Jews will profess their religion as freely as the Muslims theirs.*

(xii) The interior of Medina shall be sacred and inviolable for all that join this *Covenant*.

(xiii) All true Muslims shall hold in abhorrence every man guilty of crime, injustice or disorder.

(xiv) Controversies and disputes shall be referred for the decision of Allah and His Prophet.

(xv) None shall join the men of Mecca or their allies ; for, verily, the engaging parties are bound together against every one that shall threaten Medina.

War and peace shall be made in common. And verily ! Allah is the protector of the righteous and the godly, and Muhammnd is His Prophet.

Unity of the City State of Medina and a Free Church in a Free State

From this brief summary of the Covenant, it is clear, that it not merely asserts *the unity and oneness* of the Muslim Community, it even *asserts the unity of the City State of Medina* itself, for the Jews and the Unbelievers also have been considered to form one nation with the Muslims, and they had equal obligations in the defence and the maintenance of peace in Medina. Moreover, the fact that Medina was made inviolable makes it clear that *the Divine Laws of Peace* had now been promulgated with full force in a land of war, turmoil and anarchy. Lastly, the tolerance that was granted to the Jews *for the first time established* a 'Free Church in the Free State of Medina,' and it was the *first charter of freedom of conscience and of religious worship* in the history of the world.

Significance of the Covenant

Thus the Prophet reconciled the various parties in the city and introduced law, order and peace among its various elements. The Covenant with the Jews was *the crowning Contract* in the edifice of Contracts which established the City State of Medina. Thus, in the

words of Amīr 'Alī, the Contract constituted the Prophet 'the chief Magistrate of the nation, as much by his prophetic mission as by a *virtual compact between himself and the people*'.¹³ Dr. Hell regards this contract (ordinance) a piece of rare statesmanship and of far reaching importance¹⁴—of rare statemanship because it was the only way of reconciling the tribes and the best means of meeting the Meccans with the united support of the whole of Medina ; and of far reaching importance because it made the Prophet the sole guiding power in a land which had known no common superior. Nicholson thus estimates the significance of this event—"Ostensibly a cautious and tactful reform, *it was in reality a revolution*. Mohammed dared not strike openly at the independence of the tribes, but he destroyed it, in effect, by shifting the centre of power from the tribe to the *community*, and although the community included Jews and pagans as well as Muslims, he fully recognised, what his opponents failed to foresee, that the Muslims were the active and must soon be the predominant partners in the newly founded State"¹⁵.

The City State of Medina was founded on Various Contracts

Thus was the City State of Medina founded on the

13. *The Spirit of Islam*, p. 55.

14. Hell—*Arabian Critization*, p 23.

15. Nicholson—*A Literary History of the Arabs*, p. 173.

basis of various contracts, and 'Islam thus became what, in theory at least, it has always remained—a political as well as a religious system'.¹⁶ The *First Contract* was the contract with God and this was the acceptance of Islam by *every individual*, for every one who accepts Islam has to *individually* utter the 'Kalima' of faith—'There is no god but God and Muhammad is His Prophet.' Then the *Second Contract* was a contract for the *protection* of the Prophet—not only as God's representative on earth but also as their own elected ruler. The *Third Contract* was the confirmation of the Second Contract by the *whole of the Muslim population of Medina*; and the *Fourth Contract* with the Jews was not merely a *charter of toleration* for freedom of belief and conscience, it was a *contract for the creation of a composite nation or community for common defence and protection*. The Republic of Medina (of which the elected President was the Prophet) was thus recognised 'organic' even though the whole process of its creation was *individualistic* and therefore *Contractual*.¹⁷

Islamic State both Contractual and Organic

It is a recognised principle of modern political

16. Arnold, *Preaching of Islam*—p. 32.

17. Vaughan: 'It is manifest that the idea of Contract naturally lends itself to an individualist theory of the State'. P. LVI—*Du, Contract Social—Modern Language Texts* (Longmans—1918).

philosophy that the theory of contract assumes a *mechanical* way of creating a state and it makes it a mere manufacture, but it is now universally held that the state is *not contracted or made, it grows*. And here in the City State of Medina we have said that it is by *Contract* that the state has been made *organic* (and that too in a double sense); for if it is primarily a Muslim State the Muslim Community was already one and every Muslim was an inseparable part of the whole, as it was the greatest sin to shed the blood of a brother Muslim; and if it was a Common State of all the peoples of Medina, they were solemnly bound, '*under the protection of God which extends to one and all*' to defend the common state against all foreign dangers, and internally, too, its soil was made inviolable and free from all bloodshed. Thus was the Islāmic City State of Medina made *organic* by contracts (and to this day both the ideas of *contract* and the *unity of the community*:⁸ continue to be the central features of Muslim religious life.)

18. 1. Ans reports that the Prophet said 'None of you shall be a Momin (Faithful) until you wish the same thing for a brother Muslim that you wish for your ownself.' (Bukhārī).

2. Abū Mūsā reports that the Prophet said 'A Momin is like a building for another Momin for one of its parts is a source of strength to the other, and then he crossed the fingers of both his hands (to suggest that union is strength). (Bukhārī).

Contract in Hobbes, Spinoza, Locke and Rousseau only a medium of expression

The idea of contract was, therefore, never a fiction in Islām. As has already been shown, the making of Contract was a *historical reality* in Arabia. But in Political Philosophy it is not only Kant who has called 'contract' an 'idea of reason', modern critics have tried to make it even unreal and unnecessary in those who are the *real classical writers* of this theory. They have tried to show that these writers—Hobbes, Spinoza, Locke and Rousseau—have expressed their political ideas *through the medium of the contract*, not because it was essential for their political philosophy, but because it was the prevalent mode of expressing¹⁹ political ideas in terms of contract. Thus, says Vaughan, 'of the four philosophers in question, Locke comes nearest in principle to accepting the theory of contract. But he rejects it in terms; and, even when in substance he seems nearest to it, he inserts so many limitations, he puts in so many hostile amendments, that, on the net result, he is much farther from it than, at first sight, we might be tempted to imagine. Of the remaining three, one Spinoza accepts it *in words*, but in fact, takes away with one hand what he professes to give with the other. The two that are left—one in the interest of absolutism and the other in that

19. *The Social Contract of Rousseau* by Cole (Everyman's Library), p. IX.

of the sovereign people—reject it root and branch.²⁰

Joad absolves Locke also of the necessity of Contract

According to Vaughan, then, Locke was only a half-hearted Social Contract writer. But Joad has absolved Locke also of this irrelevancy absolutely in these words : 'But the Social Contract theory, in the form in which Locke maintained it requires us to suppose that the abolition of government involves man's relapse into a presocial condition. This admittedly would be a condition of peaceable and socially disposed persons, but it would not be the same as the condition introduced by society, since it is the establishment of government which puts an end to this condition and establishes the condition of society. Such, atleast are the contentions of the Social Contract Theory as Locke states it. It is difficult in the light of these contentions to see how society could survive the abolition of government ; yet that it does so, is precisely what Locke, in making his distinction between society and government, maintains. *The Social Contract theory is, however, in no sense essential to Locke's political philosophy.*²¹ Thus critics have freed all the four political philosophers from being Social Contract

20. Vaughan—*Du Contract Social*, p. LXV.

21. Joad—*Guide to the Philosophy of Morals and Politics*—p. 492.

writers, even though they have been *the classical writers* of this theory. This means that critics have made them what they had never thought about their own writings.

Islamic State a Contractual Organism

But in the Islāmic Conception of the State, as we have already seen, the 'Contract' (social and governmental) *is a reality* just as much as the *conception of the community is 'organic.'* The Islāmic State may, therefore, fitly be called a 'Contractual Organism'²² in the words of Fouillee, a modern French writer. The defect of the Contract Theory is that it makes the state a plaything of individual caprice even though it emphasises the 'consent' as the basis of the state; the defect of the Organic Theory is that though it emphasises the interdependence of the individual and the community, it entirely belittles individuality and the individual is made unreal. Both these defects *are not to be found* in the Islāmic State. A Muslim has to *individually* make a Contract with God (accept Islām) and remains responsible to God for individual deeds and actions; but at the same time he is an inseparable part of his community of which he is an equal member. Thus the individual in the Islamic State is both *individual and social*

22. Coker—*Recent Political Thought*. p. 412.

and in this way he maintains both his individuality and his dependence upon the community. *This explains the full significance of the conception of Contractual Organism in Islam.*

CHAPTER V

THE NATIONAL CONTRACT IN ISLĀM AND THE ESTABLISHMENT OF THE FIRST COUNTRY STATE

The First Modern Territorial State

We have now seen how the City State of Medina was founded on the basis of the State of Nature, the Laws of Nature, the Social and Governmental Contracts and the Civil Society. But though Medina got the 'Light', the whole of Arabia was still in the State of Nature as Hobbes pictured it. We have therefore now to see how the Prophet took up the task of relieving his *country* from the state of war and of changing it into a Civil Society. For this a 'Territorial or Commonwealth Contract' was needed and we have to see how an Arabian Republic was created. This was the first *modern territorial state* in the Political history of man, but no writer has yet recognized it as such.

A brief Review of Cruelties of Unbelievers on the Prophet and his Followers :

The Prophet was quite conscious from the very beginning that the unbelievers of Mecca would never allow him to live in peace and would try to extinguish

the Light of Islām, for they had already done all that was humanly possible against the Muslims and their Prophet.

Firstly, the first *Hijrat* to Abyssinia was undertaken because of their horrible cruelties on individual Muslims. Abul Fidā¹ tells us that some eighty three men and eighteen women in all settled there. The unbelievers of the Quraish followed them and sent two men to demand their return² from the King of Abyssinia, but he refused.

Secondly, Bilāl and other Muslims were dragged on the burning sands, but they did not budge an inch from their new faith, and Bilāl would only call 'Ahad : Ahad' (God is one, God is one.)³

Thirdly, the Prophet himself had been pelted with stones, and even his relations had been boycotted for a number of years.

Fourthly, when the unbelievers came to know of the Second Pledge of 'Aqaba, they caught hold of one Sa'd bin 'Abāda and perpetrated horrible cruelties on him.⁴

Fifthly, the last desperate attempt was made to kill the Prophet himself in sleep, but he managed to retire to the cave of Thaur.

1. Abul Fidā—p. 282; *Ibn Hishām*, pp. 106-115.

2. Margoliouth—*Mohammedanism*—p. 53.

3. For details of cruelties, see *Ibn Hishām*, pp. 104-106.

4. *Ibn Hishām*—pp. 157-158.

Sixthly, when he and Abū Bakr left silently for Medina (for other Muslims had been already advised to forsake their hearth and home for Medina), the unbelievers pursued them both, but they could not overtake them. The property of the Muslims had also been confiscated in Mecca.⁵

And now, seventhly, the fugitive of Mecca had become the ruler of Medina and had even tied up the Jews and the unbelievers to his side. How could they tolerate a man who had reviled their gods, had created a schism among them, had caused a desertion of their city, had set them at bay in all schemes and projects and was now master of a city whence he could preach his religion?

The Prophet rises upto the occasion and makes Contracts with Tribes.

The whole thing was, therefore, unbearable to the Quraish and they were bent upon the destruction of the Muslims. And they had already written to one 'Abdulla bin Ubay in this strain 'You have granted an asylum to one of our man and we swear that you should either assassinate him or expel him from Medina, otherwise *all of us* will *unitedly* attack you and will bring desolation and destruction in your land and will even enslave your women.'⁶ But the prophet too

5 Margoliouth, *Mohammedanism*, p. 56.

6. *History of Islam*—Sharar, p. 47.

was not sleeping. Like a true Commander, he rose to the demands of the occasion and began to send reconnoitering parties to keep a careful watch round about the suburbs of Medina. Side by side, he led several expeditions⁷ and entered into contracts with several tribes which were in alliance with Mecca,⁸ the contract with one of the tribes (Banū Damra) ran thus : "This is the document of Muhammad the Prophet for the Banū Damra. Their lives and properties will be safe. And if they will be attacked, they will be helped except when they fight against religion. And when the Prophet calls them for help, they would come to help him." Thus a *Ring-Fence Policy* was adopted to safeguard Medina and this he could accomplish because the Quraish could not at once invade Medina, for invasion now meant not the invasion against a few fugitives but of a new nation or even a sort of confederacy.⁹

Invasion of Medina and Battle of Badr.

Hence a compact army with full provision was necessary for such a gigantic task. However, the army was organised and set in motion against Medina. The Muslims were only 313 as against 1000 of unbelievers,

7. Amīr 'Alī, *The Spirit of Islam*, p. 57.

8. Ibn Hishām, pp. 223-226, Ibn Khaldūn, pp. 67-73.

9. Margoliouth, on p. 56 says 'Their war in future was not to be with a *sect* but *with a state*.'

but they inflicted a crushing defeat at Badr.¹⁰ 'It was' as Dr. Hell says 'the first victorious battle of Islām,'¹¹ and in the words of Nicholson, 'Badr, like Marathon, is one of the greatest and most memorable battles in all history. The victory of Badr turned all eyes upon Mohammed. However little the Arabs cared for his religion,' they could not but respect the man who had humbled the Lords of Mecca. He was now a power in the land—Mohammed, King of the Hedjas. In Medīna his cause flourished mightily. The zealots were confirmed in their faith, the waverers convinced, the disaffected over-awed.'

The Breach of the Covenant by the Jews and the battle of Uhad

But still the prophet could not sit in peace. The confederate tribes of Mecca—the Banū Salim and Banū Ghatfān also tried to attack Medīna but the vigilance of the Prophet kept them at bay. Even the Jews of Banū Nadīr began to act treacherously and those of Banū Qainūqā' also repudiated the Covenant.¹² They thus became 'cancers' within the body politic of Medīna, but still the Prophet did not at once use the surgeon's

10 The details of the Prophet's battles cannot be covered in this Essay for they fall beyond the theory of contract. Hence only a brief reference is being made.

11 Hell. *Arabian Civilization*, p. 27.

12 Ibn Hishām, p. 282 for breaking of Covenant by Banū Qainūqā'

knife. He made another 'contract' with them, for another Quraishite army was already on its way, and the Prophet encountered them at Uhād. It was in this battle that the cry was raised that 'Muhammad was slain,' but confidence in the Muslim army was soon restored when they came to know that the Prophet was alive.

Treachery and Hostility of the Jews and Tribes

But the effect of this confusion was against the prestige of the Prophet. The neighbouring tribes such as Banū Asad, Banu Lihyān etc., that were confederate to the Meccans, the Jews and the Munāfiqīn (Hypocrites) as also the unbelievers within Medīna itself became emboldened and took to hostile activities. Even treachery began to be practised by the tribes. They requested the Prophet to send the learned in the Qur'ān to teach them the principles of Islām and when they reached their places, *they were murdered in cold blood*. The Jews even went further. They (especially the Banū Nadīr, contrived to kill the Prophet and 'Abdulla bin Ubay, the leader of the Munāfiqīn even promised to help them if they fought against the Muslims. Hence the Banū Nadīr as they had now completely violated the covenant were expelled to Khaiber and Syria and some of them went to Mecca and stirred the Meccans against the Muslims.

The Battle of the Ditch and the treachery of the Jews and the Munafiqin

The Meccans this time invaded Medina with 10,000 strong and the Prophet was forced to dig a ditch round Medina (and in the digging operations, he also worked like all other workers). The Meccans were *also joined by the Jews of the Banū Quraiza* who were already bound in Covenant with the Prophet. The Muslims were thus put to the greatest ordeal. Externally, the enemy was thundering at the gate and internally the Munāfiqīn (who formed the fifth columnists) could not be relied upon. However, the Muslims repelled the attacks of the enemy and at this juncture God also helped them, for a heavy tempest of wind and rain set in and destroyed the enemy's tents and they were forced to go back to Mecca.

The Prophet deals with the Traitors—the Jews and the Tribes

Now was the time for the Prophet to deal with the Jews of the Banū Quraiza *who had not merely violated the Covenant but who by their untimely defection had landed the Muslims themselves in crisis.* Hence they received the punishment of traitors. After them, the Prophet took action against the hostile tribes, but he did not yet deal severely with the Munāfiqīn and their leader 'Abdulla bin Ubay even though he

had declared that he would plan the expulsion of the Prophet and his followers from Medina.¹³

The Contract or Truce of Hudaibya

Finding a little peace for himself, the Prophet decided to go to Mecca for the Annual Pilgrimage, but the Meccans would not allow him to advance beyond Hudaibya. A contract or truce was then made with the Meccans on the following terms :¹⁴

1. That the prophet should go back that year; that he could visit Mecca next year but without any materials or implements of war and should not stay for more than *three* days.
2. That there should be no hostile activities or war for 10 years.
3. That if any one from among the Quraish ran away to Medina, he would be sent back, but no Muslim who went over to Mecca would be given back to the Prophet.
4. That any one who wanted to form an alliance with the Quraish should be allowed to do so and so should there be no restriction in case of any such alliance with the Prophet. The Banū Khuzā'a declared their adhesion to the Prophet and Banū Bakr to the Quraish.

¹³ Ibn Khaldūn, p. 141, Ibn Hishām, p. 356.

¹⁴. Ibn Hishām p. 363, Ibn Khaldūn, p. 156; Abul Fidā, p. 330.

Prophet sends Envoys to Neighbouring Sovereigns

This agreement, in the beginning, was not liked by the Prophet's followers, for several Quraishites who had run away to Medina had to be sent back under its terms, but the Prophet reconciled them. On his return to Medina, he sent his envoys to the neighbouring sovereigns such as to Heraclius, the Byzantine emperor and to Khusru Parvaiz, the Kesrā of Persia.

The Jews of Khaiber dealt with and 'Lesser Pilgrimage' made

Then the Prophet's attention was called by the Jews of Khaiber who in alliance with the hostile tribes of Banu Ghatfan and others were forming another coalition against Muslims, but they were soon brought to their knees though *they were allowed the free practice of their religion*. It was after this that the Prophet decided to go to the 'Lesser Pilgrimage' and for three days the Quraishites evacuated the city. The Prophet then, according to his contract, left for Medina with his followers.

War against Ghassanides

After arrival at Medina, the Prophet had to wage war against the Ghassanides, for his envoy had been killed by them. The Emperor Heraclius also joined his feudatory prince, and the armies of both met Muslims at Muta but were soon repulsed.

The Conquest of Mecca

Then the Quraish and their allies the Banū Bakr, in *violation of the contract*¹⁵ of *Hudibiya*, attacked the Banū Khuzā'a who were in alliance with the Muslims. The latter sought justice from the Prophet who, realising that the *Meccans had themselves violated the peace*, immediately took the field with 10,000 men. The result was that after a slight resistance the Prophet entered Mecca like a successful conqueror. But he did not take the revenge *which would have been fully justified by the horrible cruelties which had been perpetrated on the Muslims*. He granted a general amnesty to the people of Mecca,¹⁶ but the idols were the first to be broken as 'Truth had come, and falsehood gone; for falsehood, verily, vanisheth away.' 'The magnanimity' says Muir 'with which Mahomet treated a people who had so long hated and rejected him is worthy of all admiration. It was indeed his own interest to forgive the past, and cast into oblivion its slights and injuries. But this did not the less require a large and generous heart.' And Mahomet had his reward, for the whole population of his native city at once gave in their adhesion, and espoused his cause with alacrity and apparent devotion. Within a few

15. *Ibn Hishām*, p. 398; *Abul Fidā* p. 339

16. *Abul Fidā*, p. 344

weeks we find two thousand of the citizens fighting faithfully by his side.¹⁷

The Contract with the People of Mecca

From this it is clear that the *real* conquest of Mecca was not by force, *it was the conquest of the heart*, and it was on the hill of *Safā* that the old pledge of 'Aqaba (Contract with Allah of acceptance of Islām) was taken by hosts after hosts *individually*— “They would not adore anything ; they would not commit larceny, adultery or infanticide ; they would not utter falsehood, nor speak evil of women.”¹⁸ In the words of *Tabarī* “Now all men to accept Islām gathered together in Mecca to make a Contract (*bai'at*) with the prophet. ‘Umar bin *Khaṭṭāb* was also sitting on the dais (*mimber*) a step below. He helped the people in making the Contract regarding their obedience to God and to the Prophet to their utmost, and in their acceptance of Islām. After the men had pledged themselves, *the Prophet began making Contract (*bai'at*) with the women*, and the women of the Quraish were also among them.” The Contract with the women involved the following pledges :

(i) that they would not associate aught with God, (ii) that they would not commit theft, (iii) that they would not commit adultery, (iv) that they would

17. *Mutr*, (1894 Edition), p. 398

18. *Amr 'Ali* on the authority of *Ibn Athir*, p. 90.

not practise infanticide, (v) that they would not slander others, and (vi) that they would not go against the command of the Prophet.

In the case of women, the contract was made at the hands of 'Umar as the Prophet did not touch women (other than his lawful wives and did not give his hand in their hands"¹⁹ (which is done in the process of the making of the contract or bai'at.) This contract was also based on the willing acquiescence of the people, because, as Muir says, '*there were no 'disaffected' inhabitants at Mecca, nor any relapse even in the rebellion that followed the Prophet's death.*'²⁰

Battle of Hunain and discontent among Ansar.

The Prophet, then, sent several of his trusted followers to call the wild tribes to Islām and they were strictly forbidden to use force against any one of them. But while some accepted the religion of peace, others like Banū Hawāzin, Banū Thaqif and Banū Ṭāif formed a League against the Muslims.²¹ They were, however, worsted by the Prophet at Hunain and the spoils of war were distributed to the newly converted Meccans. This caused a little discontent among the Anṣār, for they had got nothing and they thought that the Prophet had been partial

19. Tabari, Vol. I, Part III, pp. 445-446, Hyderabad Edition.

20. Muir, (1894 Edition), p. 398.

21. Ibn Hishām, p. 418 : Ibn Khaldūn, p. 195.

to the Meccans, that is, to his kith and kin.²² As soon as the Prophet heard of this, he addressed them thus : “*Ye Ansār ! when I came amongst you, you were wandering in darkness, and the Lord gave you the right direction ; you were poor and He made you contented ; you were at enmity amongst yourselves and He has filled your hearts with brotherly love and concord.* Was it not so, tell me ?” “Indeed, it is even as thou sayest” was the reply, “to the Lord and His Prophet belong benevolence and grace.” “Nay, by the Lord” continued the Prophet “but ye might have answered, and answered truly, for I would have testified to its truth myself ‘*Thou came to us rejected as an impostor and we believed in thee; thou came as a helpless fugitive, and we assisted thee ; poor, and an outcast, and we gave thee an asylum ; comfortless, and we solaced thee.* Ye Ansār ! why disturb your hearts because of the things of this life ? Are ye not satisfied that others should obtain the flocks and camels, while ye go back into your homes with me in your midst ? By Him Who holds my life in His hands, *I shall never abandon you. If all mankind went one way and the Ansār another, verily, I would join the Ansār.* The Lord be favourable unto them, bless them, and their children and their children’s children.”²³

On this they wept, and declared that they were happy and contented.

22. Ibn Hishām, p 429.

23. Amir 'Ali—p. 93 ; Ibn Hishām, pp. 429-30.

Conquest of Mecca opens a New era in Islam.

However, 'the conquest of Mecca' as Muir puts it 'opened a new era in Islām. It practically decided the struggle for supremacy in Arabia. Followed by the victory of Hunain, it not only removed apprehension of future attack upon Medina, but elevated Mahomet to a position in which it was natural for him to assert an authority paramount over the whole Peninsula. It is true that no such authority had ever vested in the Chiefs of Mecca...There was thus at the moment no power even nominally paramount throughout the Peninsula. Besides Mahomet himself, no one could lay claim to the dignity or even dream of aspiring it. The possession of Mecca now imparted a colour of right ; for Mecca was the spiritual centre of Arabia, and to Mecca the tribes from every quarter yielded a reverential homage...Throughout Arabia, who could advance pretensions to the supreme authority beside the Prophet of Medina and Conqueror of Mecca ? The spiritual power which the Prophet gained by combining the Pilgrimage with the new faith was felt throughout from the moment that Mecca submitted to his arms. There remained but one religion for Arabia, and that was Islām...(and) *the new creed was so deftly bound up with the civil polity*, that the recognition of Mahomet's spiritual power necessarily involved a simultaneous submission to his secular jurisdiction...It lay at the root of Islām that the convert should not only submit

to its teaching, its ritual and its code of ethics, but also that he should render an implicit obedience in all things 'to the Lord' and to His Prophet'.²⁴

Return of the Prophet to Medina and March to Tabuk

Soon after Hunain, however, the Prophet returned to Medina. Here he got information that the Byzantine feudatories were making preparations for the invasion of Arabia. The Prophet organized an army and at once advanced to Tabük but found that all rumours of invasion had melted away. Hence he ordered the return to Medina.

A Period of Deputations from various Tribes begins

Now began a period of deputations from all over Arabia. 'His supremacy was every where recognised, and from the most distant parts of the Peninsula, from Yemen and Hadarmant, from Mahra, 'Uman and Bahrein, from the borders of Syria and the outskirts of Persia, the tribes hastened to prostrate themselves before the rising potentate, and by an early submission secure his favour'.²⁵ They were generously treated and on their way back were given expenses of the road,²⁶

24. Muir—(1894 Edition), pp. 417-18.

25. Ibid, p. 423.

26. Ibid, p. 424; also Amir 'Ali, pp. 94-95.

and a written agreement or treaty often guaranteed the privileges of the tribe. Often a 'Reader' was also sent to instruct the tribe in the duties of Islām and a large amount of independence or autonomy was left to the tribe itself. It was in the 9th year of Hijra that these deputations or embassies had begun to pour in and they continued even in the tenth. This is why the 9th year is known in Islāmic history as the Year of Deputations, and before its close many chiefs and princes of Yemen, Mahra, 'Umān, Bahrién and Yemāma had signified by letter or by embassy their conversion to Islām and submission to the Prophet.²⁷

The Contracts of Deputations formed a National Contract

Thus were individual 'contracts' made by all the important tribes of Arabia recognising the Prophet as the Chief Magistrate of Arabia and hence the *first Arabian Country State* was constructed on the basis of a *nation wide contract* which was side by side a *contract with God also*. This was truly an exhibition of a 'thoroughly democratic conception of divine government'.²⁸

27. Muir—p. 441.

28. Amir 'Ali—p. 115.

It is interesting to note here that these 'group or tribal' contracts with wide autonomy to individual *contracting units* ushered in the beginnings of a *federal union*. The love of their independence by the tribes naturally went against all central control. Hence there could be no question of the rise of a unitary type of government.

CHAPTER VI.

THE FOUNDATIONS OF THE ISLĀMIC STATE AND ROUSSEAU.

Farewell Pilgrimage and the Declaration of the Rights and Duties of Man

When the hosts of Arabia had thus flocked to the faith of Islām and the wild tribes of the State of Nature had been rescued from a state of war, the work of the Prophet was drawing to a close and he decided to make a 'Farewell' pilgrimage to Mecca where he addressed the people thus¹: 'Ye people ! listen to my words, for I know not whether another year will be vouchsafed to me after this year to find myself amongst you at this place,' and then he emphasised the following points :—

1. *Your lives and property are sacred and inviolable* amongst one another until you appear before the Lord, as this day and this month is sacred for all ; and (remember) you shall have to appear before your Lord, Who shall demand from you *an account of all your actions.*

¹ *Amīr 'Alī*, pp. 106-107 ; *Muīr*, pp. 457-459 ; *Ibn Khaldūn*, pp. 240-244 ; *Ibn Hishām*, pp. 476-477.

2. *You have rights over your wives and your wives have rights over you.*
3. *Keep always faithful to the trust reposed in you and avoid sins.*
4. *Usury is forbidden.*
5. *Henceforth the vengeance of blood, practised in the days of paganism (Jahiliyat or State of Nature) is prohibited and all blood feud abolished.*
6. *See that you feed your slaves with such food as you eat yourselves and clothe them with the stuff you wear.*

7. *All Muslims are brethren unto one another. You are one brotherhood and all of you are on the same equality. Nothing which belongs to another is lawful unto his brother unless freely given out of good will. Guard yourself from committing injustice.*

Then the Prophet asked those that were present to communicate 'this' message to those that were absent and then addressing God said 'O Lord ! I have delivered my message and accomplished my work,' and the assembled host cried 'Yea, verily, thou hast,' 'O Lord ! I beseech Thee, bear Thou witness unto it.'

Organisation of the Muslim Federation of Arabia.

After this, the Prophet went back to Medina and 'settled the organisation of the provinces and tribal

communities which had adopted Islām and had become the component parts of the Muslim Federation,²

I. Foundations of Islamic State on Liberty of the Individual and on the Autonomy of the City State

Thus was the Arabian State founded on the broad bases of *liberty* (*hurriyat*), *equality* (*masāwāt*), *fraternity* (*Ukhwāt*) and *sanctity of person and property*. Liberty in the Islāmic sense was not only the freedom of the individual as limited by the liberty of his brother, it was also the liberty of each tribe. *Every tribe also was a little autonomous city state* having very little of the encroachment of the Central Government for an 'Amīl and a *Reader* of the Holy Qurān were the only *Resident* authorities that represented the Central Goverment. Thus the wild freedom or licence of the State of Nature—both in individual and tribal relationships—gave way to the moral freedom of the Civil Society in which the liberty of one brother and one city or tribe was limited by the liberty of another brother, city or tribe.

Would it be out of place, I ask, to tarry here, pause for a moment and say 'Had not Rousseau this state of things in his mind? The citizen of Geneva never favoured a Unitary National Territorial State as Cobban

2 'Amīr Ali, *Spirit of Islam*, p. 107

has clearly shown in his 'Rousseau and the Modern State.' What he favoured was a *federation of autonomous city states*. Did not this federation of Arabia answer to his ideal of political organisation on the basis of the autonomy of the confederating republics ?

2. On Equality

Secondly, *equality of man* was not only preached in theory, it was already working in practice. In the mosque, five times in the day, the highest stood shoulder to shoulder with the lowest and knelt with *equal piety* before the Common Creator. Not only that. They had to vie with each other, not in the acquisition of wealth or property but *in the service of the Lord and in good actions*. Hence all differences of rich and poor, slave and master melted away before the conception of 'good actions' which every one was called upon to do *in his own interest* for the higher life of the Hereafter. Thus, *service and sacrifice* came to be the basis of distinction '*in the eyes of the Lord*' and not wealth and property. In the presence of Allah, all men were equal, and hence even the so called slaves were to be given the same food and the same clothes as the master used for himself. Says Margoliouth . 'The equality of all Moslems, was, we have reason to believe, a fundamental doctrine with the Prophet, and the earliest interpreters of his

ideas were probably right in thinking that he intended that rule to be *absolutely without exceptions*, even his own family enjoying no privileges...He would seem to have regarded the ideal brotherhood of Islām as superior in closeness to all family ties. He established no hierarchy of officials ; at most some few of his followers received titles of honour which belonged exclusively to themselves. He made no permanent appointments ; the officials created by him were purely for the occasion, and when that was over, the office as well as the appointment lapsed.³

3. On Fraternity

Thirdly, Fraternity too was not preached as a mere ideal. The very basis of the community was based on the idea of Common Brotherhood. The blood relationship of a tribe fainted away before the greater and wider conception of the Brotherhood of Islām. This is why bloodfeuds and blood revenge were done away with for ever and a people (such as those of Arabia) *who could never have been united* were transformed into a Community in which every individual was a brother of every other individual and hence could not encroach upon each other.

4. On Rights and Duties or Social Obligations

Thus, fourthly, not only liberty, equality and

³ Margoliouth—*Mohammedanism*, pp. 79-80.

fraternity were actually established, even rights and duties were made clear to every individual. Rights in the State of Nature were no more than the use of physical powers. Now they are *social obligations*—‘Nothing which belongs to another is lawful unto his brother unless freely given out of good will.’ Thus the rights to life or to person or property were made inviolable till ‘you appear before the Lord.’ Hence bloodshed vanished, for life became sacred; slavery was controlled and made ineffective by granting *equal freedom* with the master who was liable to God for his ‘trust’, and ‘property’ made safe from loot and plunder (and even usury). Besides, women were taken out of utter degradation and they became subjects of rights and duties *equally* with men.

Significance of the Declaration of the Rights of Man by the Prophet

Thus the great significance and superiority of this Declaration of the Prophet of Islām compared with the later Declarations of the Rights of Man of America and France lay in the fact that while the latter were *only pious wishes for the future*, the Declaration of the Prophet of Islām was made *after everything had been established in practice and was already working successfully in actuality*.

Resemblances with Rousseau's Ideal

The resemblance of these first principles of the

Islāmic political edifice with Rousseau's political ideas does not end with *the City State as the unit of a wider federation* and his emphasis upon *the rights of man*—of life, liberty and property as also of equality, justice, and fraternity. There is a *third* point still of greater significance. It is by making *the Social Contract* that he creates an *Organic* Community. In Islām also the Community has been made by the Social Contract. But while in Rousseau the Contract is *unreal* (as Vaughan and Cole tell us), in Islām the Contract is *real and is also a permanent affair* (as will be seen in the coming pages.) In Rousseau, the good will of each creates a new entity in the Sovereignty of the General Will of the Community, in Islām also the good will of each creates a new Community as a new entity by itself (out of the individualism of the State of Nature); but this Sovereignty of the Community is vested in the only Supreme God of the Universe Who is the Be-all and End-all of all things. Thus if Hobbes had created a '*Mortal God*'⁴ in his '*Leviathan*', and Rousseau a General will as absolute as the sovereign of Hobbes, Islām believes in the really *Absolute Immortal Sovereign* Who is more true, in every sense, of the powers ascribed to the mortal sovereign of Hobbes, and the phantom sovereign of Rousseau. The sovereign of Hobbes as being absolute, permanent, unlimited, illimitable, indivisible,

4. Hobbes—*Leviathan*, Ch. XVII—p. 89.

inalienable, omnipotent⁵ and omnicompetent has been found to be *unreal* in practice every where. The sovereign of Rousseau has been demolished by the arguments and criticisms of Hobhouse. But the Sovereign of Islām—the only Indivisible Almighty God—is the only true Sovereign Who answers to the description of these adjectives and Who is Imperishable and Ever-living. The Prophet of Islām, as the representative of God on earth, was no doubt '*absolute*' in a certain sense in religious affairs, but in social and political matters *he took counsels with the people*. He was, in this sense, a true representative of the people.⁶ But here again Hobbes' sovereign tried to acquire all

5. Hobbes, speaking on the kingdom of God by Nature, says that His Kingdom over men, and the Right of afflicting men at His pleasure, belongeth Naturally to God Almighty, not as Creator, and Gracious, but as '*omnipotent*' from His Irresistible Power. *Leviathan*, (Everyman's Library) p. 191.

In Islām God's sovereignty is not associated only with one quality-'Power', but also with His many other Qualities and Attributes some of which Hobbes also considers on p. 193.

6. Shibli, *Sīrat-un-Nabi* (Nāmī Press; Cawnpore)—p. 272; Ibn Hishām, pp. 288—89.

In the battle of Uhud the Prophet had one opinion but the general body of Muslims differed from him on the manner of meeting the enemy (that is, from *within* Medina or from *outside* it.) The Prophet agreed to abide by the *majority opinion*. Several other instances can further be cited for the existence of such a practice.

the powers of the Prophet of Islām for he was made competent to understand, interpret and even apply God's laws. But the sovereign of Rousseau, because it was a phantom of imagination, could only be applied to the Sovereignty of the Prophet in the Hegelian sense. That writer had talked of the divinity⁷ of the German nation and then had said that the unity of the state found expression in the German Monarchy, that is, in 'an actual individual, in the will of a decreeing individual, in monarchy'.⁸ Thus the General Will of Rousseau found itself actually expressed in the German Emperor. More true and effective than this sovereignty of the German Emperor was the sovereignty of the Prophet of Islām for the general will of the Islāmic people or of the state of Arabia found its real expression in the personality of the Prophet. The Prophet was, therefore, in a real sense, a better representative of the people, for he was not occupying his place as a hereditary king but as God's and peoples' elect. Thus this *democratic conception of divine government* was far more real and divine than the divinely⁹ ordained

7. Ernest Barker—*From Spencer to To day*, p. 28.

8. *Ibid*—p. 29.

9. Willoughby—*The Ethical Basis of Authority*, p. 98 and also pp. 92—109.

In 1890, 'William said, "The fact that we have been able to achieve what has been achieved is primarily due to the fact that in our House the tradition prevails that we regard ourselves as appointed by God to reign over the peoples whom we have been

Monarchy of Prussia in which was expressed the divinity of the nation.

And, lastly, what was the net result of the Islamic Contract? Surely, in the words of the Holy Qu'ān 'the eminence of those' who made it. In Rousseau's terminology, 'Man would be bound to bless continually the happy moment which took him from it (the State of Nature) for ever, and instead of a stupid and unimaginative animal, made him an intelligent being and a man' and he gains '*advantages so great, his faculties are so stimulated and developed, his ideas so extended, his feelings so ennobled, and his whole soul so uplifted*' that compared with these the life of the state of nature fades away in insignificance. He lost no doubt 'natural liberty' and 'an unlimited right to every thing' he tried to get and succeeded in getting; but he gained civil liberty and the proprietorship of all he possessed. Again in Rousseau's own words 'We must clearly distinguish natural liberty which is bounded only by the strength of the individual, from civil liberty, which is limited by the general will; and possession, which is merely the effect of force or the right of the first occupier, from property, which can be founded only on a positive title. We might, over and above all this, add, to what man acquires in the civil state, *moral liberty*, which alone makes him truly master of himself; for the mere impulse of appetite is slavery, while

called to rule, and to guide them in accordance with their welfare and the furtherance of their material and spiritual interests.'

obedience to a law which we prescribe to ourselves is liberty'.¹⁰

There is a deeper Meaning in Rousseau's Social Contract.

Besides these resemblances that are too apparent and which we get at the 'first look', I find even deeper meaning in Rousseau's writings. My own reading of his 'Social Contract' has led me to believe that he is in fact literally interpreting the foundations of the Islāmic State as they had been laid by the Prophet of Arabia.

1. The Islamic State is Founded on the Sovereignty of God.

The Islāmic State, in the first place, is based on the Sovereignty of God. This is also true, as recent studies of Miss Annie Marion Osborn tell us, of Rousseau's conception. Says she: 'That God willed the

10. Kant has also similarly expressed himself on the result of the Contract. By Contract men "surrender their external freedom in order to receive it immediately back again as members of a commonwealth" they "abandon their wild lawless freedom in order to substitute a perfect freedom—a freedom undiminished, because it is the creation of their own free legislative will; but a freedom which nevertheless assumes the form of a lawful dependence because it takes its place in a realm of Right or Law."—E. Barker, 'From Spencer to Today,' p. 26.

State as the only means whereby man could achieve virtue and thereby fulfil his nature was the *fundamental conclusion* upon which Rousseau also has based his political philosophy.¹¹ She further says, 'If there were no God, then Rousseau acknowledged that the wicked were right, and the goodman nothing but a fool. But such an assumption was contrary to all that he had observed of the moral order of the universe, the reality of which was as obvious to him as it was to Burke. *And satisfied that God not only existed, but was the moral ruler of the universe*, Rousseau reasoned that man was free because God willed his freedom.'¹² From these quotations it is not only crystal clear that the fundamental conception of Rousseau's ideal government was the *establishment of Divine Government*, but also that *man was free because God willed his freedom*. This is nothing but

11. Osborn, A. M.—*Rousseau and Burke*, O. U. P., London, (1940) p. 150.

12. *Ibid.* p 152.

On pp. 87-88, she says 'It was in common with nature that his soul found God. The beauty of nature touched him profoundly and gave him a deep sense of reverence of God, a reverence that his contemporaries had transferred from the Deity to Science. He liked to rise before dawn and go out onto a beautiful road that skirted the woods nearby. Here, as he walked in the beauty of the dawn, he would pray and then his prayers were no mere repetition of words' without vital meaning. They were the sincere aspirations of his heart towards the Author of the nature which stretched before his eyes in all its magnificence. For he loved to contemplate God in the Majesty of His Works.'

the Islāmic definition of freedom, for modern writers try to ignore God as the Author of freedom, and they talk of freedom as the result of the moral nature of man, for to them unlimited freedom is based on animal instinct and the limited freedom of man is based on reason and consciousness. In this way, the source of freedom comes to be man himself, not God, for it is 'man who has made God, not God man', and Green perhaps is the only writer who says that *Supreme Self-Consciousness* postulates to human self-consciousness the idea of social good and therefore of liberty and rights. Not only this. Even the God of Rousseau is not the God of Christianity which believes in Trinity or of any other religion. He is also the God of Islām for He is powerful, intelligent, beneficent, foreknowing and providential as we shall see in the coming pages.

2. The Islamic State is founded on Prophethood or on an Inspired Legislator

Secondly, the law of the Islāmic State comes through the Prophet of God—"an Inspired Legislator" for by themselves the people are not enlightened enough to make satisfactory and right laws. To Rousseau also, the same thing is true for he also wants a superior intelligence or a genius to make the laws for the people, and he ultimately finds him in the Prophet Muhammad (Peace be on him!). This

can be seen in his detailed argument which runs as follows :

Rousseau on the Necessity of a Legislator

In chapter VI on 'Law' (Book II—Social Contract)¹³ he makes it clear that the people should be the author of Laws but '*how can a blind multitude, which often does not know what it wills, because it rarely knows what is good for it*, carry out for itself so great and difficult an enterprise as a system of legislation ?.....This makes a Legislator necessary.'

Who can be the Legislator ?

And who can be this Legislator ? In Chapter VII on the 'Legislator', Book II he says 'In order to discover the rules of society best suited to nations, a Superior Intelligence beholding all the passions of man, without experiencing any of them would be needed. This intelligence would have to be wholly unrelated to our nature, while knowing it through and through ; its happiness would have to be independent of us, and yet ready to occupy itself with ours...He who dares to undertake the making of a peoples' institutions, ought to feel himself capable, so to speak, of changing human nature, of transforming each individual, who is

13. All references to Chapters as also Quotations refer to Cole's Edition of Social Contract.

by himself a complete and solitary whole, into part of a greater whole from which he in a manner receives his life and being ; of altering man's constitution for the purpose of strengthening it ; and of substituting a partial and moral existence for the physical and independent existence nature has conferred on us all. He must, in a word, take away from man his own resources and give him instead new ones alien to him, and incapable of being made use of without the help of other men'.

What is the Position of the Legislator ?

And what is to be the position of this Legislator ? Rousseau says 'The Legislator occupies in every respect an extraordinary position in the state. If he should do so by reason of his *genius*, he does so no less by reason of his *office, which is neither Majistracy, nor Sovereignty*, But, then, what can this office be if it is neither Majistracy nor Sovereignty ? Surely, it can only be *Prophethood or Prophecy* for Rousseau further adds—'This office, which sets up the Republic, *no where enters into its constitution : it is an individual and superior function, which has nothing in common with human empire*. (This is why the Prophet of Islām never marked out or appointed a successor, for his office was an *individual* office having nothing in common with human empire)¹⁴. It is significant

14. As it has nothing in common with human empire, it cannot be a Dictatorship also.

that Rousseau is talking of 'Superior Intelligence' and of 'genius' but he fights shy of openly declaring his belief in *Revelation*, for had he done it he would have failed to conceal the source of his inspiration and the object of his admiration, and yet in suppressed language he further tells us about the power and authority of the Legislator.

What is the Source of the Legislator's Power ?

Thus, 'the Legislator must have recourse to an authority of a *different order*, capable of constraining without violence, and persuading without convincing ... This is what has, in all ages, compelled the fathers of nations to have recourse to *divine intervention* .. in order to constrain by divine authority those whom human prudence could not move.' Here Rousseau approvingly quotes Machiavelli in justification of what he had said. 'In truth' says Machiavelli 'there has never been, in any country, an extraordinary legislator who has not had recourse to God ; for otherwise his laws would have not been accepted.' But, says Rousseau, any and every man cannot be successful in *feigning* to 'be in secret intercourse with some divinity'—(here Rousseau has in mind the cases of Mussailima Kadhdhāb (the liar) and other pretenders). '*The great soul of the legislator is the only miracle that can prove his mission*'...In 'Judaic law, which still subsists, and *that of the child of Ishmael, which, for*

ten centuries, has ruled half the world, still proclaim the great men who laid them down ; and while the pride of philosophy or the blind spirit of faction sees in them no more than lucky impostures, the true political theorist admires, in the institutions they set up, the great and powerful genius, which presides over things made to endure.'

The 'Inspired Legislator' is the Child of Ishmael.

Thus, it is clear that the Lycurgus of Rousseau is an 'Inspired' Legislator and that he finds him in the 'Child of Ishmael'. In his Chapter VIII on 'Civil Religion', (Book IV) he becomes explicit in his meaning and *he names the Child of Ishmael himself.*

The Religion of the Citizen

He begins by saying that in early times 'there were as many gods as people' and 'natural divisions thus led to polytheism, and this in turn gave rise to theological and civil intolerance which are by nature the same.' This he calls *the Religion of the Citizen*, a religion 'which is codified in a single country, gives it its gods, its own tutelary patrons ; its dogmas, its rites and its external cult prescribed by law ; outside the single nation that follows it, all the world is in its sight infidel, foreign and barbarous ; the duties and rights of man extend for it only as far as its own altars'. Such a religion, as Rousseau points out, was

the religion of the Greeks and Romans, but to which we may also add the religion of the ancient Arabs, and, in our times, the religion of the Hindus because the last is eminently a national religion, with its own national gods, rites and rituals and a religion in which all foreigners are 'Malikschas' or untouchables.

The Religion of Man

Then Rousseau speaks of the *Religion of Man* which has 'neither temples ; nor altars ; nor rites and is confined to the internal cult of the Supreme God and the eternal obligations of morality'. It is the Religion of the Gospel, pure and simple, the true theism.

The Religion of the Priest

Lastly, he says, that there is a third kind of religion, 'which gives men two codes of legislation, two rulers and two countries, renders them subject to contradictory duties, and makes it impossible for them to be faithful both to religion and to citizenship. Such are the religions of the Lamas and the Japanese, and such is Roman Christianity, which may be called *the Religion of the Priest.*'

Rousseau's Criticism of the Religion of the Priest and of the Citizen

Of these, Rousseau tells us that 'the third is so

clearly bad, that it is waste of time to stop to prove it such'. The religion of the citizen 'is good in that it unites the divine cult with love of the laws, and, making country the object of the citizens' adoration, teaches them that service done to the state is service done to its tutelary God...To die for one's country then becomes martyrdom ; violation of its laws, impiety ; and to subject one who is guilty to public execration is to condemn him to the anger of the gods: *Sacer estod.*' But 'it is bad in that, being founded on lies and error, it deceives men, makes them credulous and superstitious, and drowns the true cult of the Divinity in empty ceremonial. It is bad, again, when it becomes tyrannous and exclusive, and makes a people blood thirsty and intolerant, so that it breathes fire and slaughter, and regards as a sacred act the killing of every one who does not believe in its gods.'

His Criticism of the Religion of Man

The religion of man or Christianity of the Gospel makes all men the children of God and brethren among themselves, 'and the society that unites them is not dissolved even at death.' But it has grave-defects.

(1) As it has no particular relation to the body politic, it does not strengthen the laws 'So far from binding the hearts of the citizens to the state, it has the effect of taking them away from all earthly things. I know of nothing more contrary to the social spirit.'

(2) A society of true Christians would not be a society of men. Its greatest flaw would be in its perfection. The country of the Christian is not of this world.

(3) If a single selfseeker or hypocrite comes out, he would get the better of his pious compatriots. 'Very soon you have a power ; it is God's will that it be obeyed : and if the power be abused by him who wields it, it is the scourge wherewith God punishes His Children.'

(4) If war breaks out with another state, citizens would certainly do their duty but *they would have no passion for victory*. 'They know better how to die than how to conquer.'

(5) 'Christianity preaches only servitude and dependence.' Its spirit is favourable to tyranny.

His Criticism of Established Church

Besides, in England and Russia, says Rousseau, the kings have made themselves heads of the Church, 'but this title has made them less its masters than its ministers...they are not its *legislators*, but only its princes. *Wherever the Clergy is a corporate body*, it is master and legislator in its own country. There are thus two powers, two sovereigns, in England and in Russia.' Hobbes was the only 'Christian writer' who had 'seen the evil' and had 'dared to propose the reunion of the two heads of the eagle, and the restora-

tion throughout of political unity, without which no state or government will ever be rightly constituted.'

His Approval of Muhammad's System

After thus examining all these existing systems, Rousseau observes that the 'sacred cult has always remained or again become independent of the sovereign, and there has been no necessary link between it and the body of the State,' and then makes the astounding remark that '*Mahomet held very sane views, and linked his political system well together; and, as long as the form of his government continued under the Caliphs who succeeded him, that government was indeed one, and so far good.*'

Thus from this account it is clear that not only his God was the God of Islām, his Inspired Legislator was also no other than the Prophet of Islām, who, as he himself tells us, was along with Moses no mere lucky imposter, but a genius whom the false pride of philosophy or the blind spirit of faction or religious prejudice may not recognise as such, but whose greatness cannot be concealed or minimized because he was successful in the arduous, nay, on the face of it, impossible task of moving those (*by divine intervention*) whom human prudence had failed to move.

Was Rousseau a Muslim at Heart ?

Now, if this was his belief, (and in the absence of

an open declaration by him of his acceptance of Islām), would it be going too far to suspect that Rousseau might have been a *Muslim at heart*, for his belief in God and His Prophet comes to be the belief in the Islāmic doctrine of faith that '*there is no god but God and Muhammad is His Prophet*', and as we shall see below, his emphasis on the sanctity of the Social Contract and of the Laws is no more than the unbreakable nature of Islāmic Contract once made with God and the sanctity of the Holy Qur'ān which is the Law of God.

Other Reasons for Suspecting Him a Muslim

But these are not the only reasons which create such suspicion. There are other factors which warrant us to suspect in this manner and these we collect from his '*Confessions*' as follows :

(1) He had renounced¹⁵ Roman Catholicism and had accepted the Reformed Church and attended the divine service, and yet people doubted the sincerity of his religion. He says, 'I was afraid that by presenting myself at the Lord's table, I might expose myself to the insult of a refusal.'¹⁶ Printed abuse went on against him and he was assured that even a decree of censure had been obtained against him.¹⁷ Then

15. *Confessions* of Rousseau, Vol II—Oliver and Boyd Edinburgh, M. C. M. IV, pp., 127—28.

16. Ibid, p. 355.

17. Ibid, p. 356

Rousseau observes '*Did the members desire to settle that I was not a Catholic? Every body knew this already. Did they desire to prove that I was not a good Calvinist?*'

(2) He tells us that the publication of his 'Emile' created an uproar against him even in Paris and the French called him an infidel, an atheist; a lunatic, a madman, a wild beast, a wolf.¹⁸ Thus no one was sure what the religion of Rousseau was.

(3) He also tells us that 'My friend Vernes, *amongst others*, ..chose this moment to publish some letters against me, in which *he claimed to prove that I was not a Christian.*'¹⁹

Thus people not only doubted his being a Catholic or a Calvinist, but also that he was not a Christian at all. We are sorry we do not possess those letters of Vernes otherwise we would have come to know the charges he might have levelled against Rousseau. Though he was called an atheist, we have now come to know that *he did believe in God*. Hence we are still left in doubt and we say to ourselves. 'If he was neither a Catholic nor a Calvinist and not even a Christian nor an atheist then what was he?' Was he an infidel? And '*infidel*' was a term usually used against the *Muslims*. However, Rousseau himself helps

18. *Confessions* of Rousseau, Vol. II, (Oliver and Boyd Edition), p. 340.

19. *Ibid*, p. 385.

us to form some opinion about his concealed or undeclared religion.

(4) At Montmorency, in his own words, he 'procured a little Armenian wardrobe' but it resulted in a great 'storm' against him so that he was forced to give it up and he decided to wear it again at Motiers and he did it at that place with the consent of the pastor who told him that he could wear it even in the Church *without giving offence*. His Lord Marshal when he saw him in this dress, said *by way of compliment* 'salaam-alek' and this 'ended the matter' and Rousseau observes that 'I never afterwards wore any other dress.'²⁰

Now was all this mere joke I ask ? He is addressed the *Muslim form of salutation by way of compliment* ? What for was he complimented by His Excellency the Lord Marshal ? Why did Rousseau not wear any other dress throughout the rest of his life ? Was this mere eccentricity of a 'madman' ? Let my readers themselves guess and answer.

Lastly, apart from his *Confessions*, there remains one more argument. We have already seen his down-right condemnation of Church and State as separate orders in Roman Catholicism ; we have seen his criticism of the Established Church of England ; we have further seen that he is against the Religion of the Citizen and, lastly, we have also seen that though he

20. *Confessions*, of Rousseau, Vol. II, (Oliver and Boyd Edition), pp. 350—351.

notes the virtues of the Religion of Man or the Christianity of the Gospel, he ultimately tells us that in practice it comes to teach slavery. Hence what he wants with Hobbes is the restoration of the unity of the state by 'uniting the two heads of the eagle' and this he approvingly tells us is found in the *Sane System* of Muhammad (Peace be on him!). Thus when he had rejected all systems of religion as defective, *is it too much to suspect that he might have secretly adopted the religion of his approval in the afternoon of his life, or, to say the least, he might have been overwhelmingly inclined towards Islam?* *Cannot, then, his Civil Religion be Islam in disguise.* Let us, then, see if this is true

We have already seen that the Islāmic State is founded upon the Sovereignty of God and on the Laws of an Inspired Legislator, the Prophet of God, and this is true of Rousseau's ideas also.

3. The Islamic State has a Religious basis

Now we have to see, thirdly, that the Islāmic State is organized on a *religious basis* for a separate Church would have not only weakened the Islāmic State, it would have spoiled and corrupted religion itself. Rousseau, who also recognized the grave defect of Church and State as separate entities, appreciated this merit of the organization of the Islāmic State and therefore looked to religion (and not to Church) to *fortify and cement the State.* Hence he wanted to have

a Civil Religion because 'no state has ever been founded without a religious basis,' and 'his political system would have remained incomplete if he had failed to show the relationship of religious belief to his political principles.'²¹

The Dogmas of Rousseau's Civil Religion.

With this end in view, he lays down the 'Dogmas' or 'Articles' of his Civil Religion ; and he wants them to be 'few, simple and exactly worded, *without explanation or commentary.*' And what are they ? They are, on the *positive* side,

- (1) the existence of a mighty, intelligent Divinity, possessed of foresight and providence ;
- (2) the life to come ;
- (3) the happiness of the just ;
- (4) the punishment of the wicked ;
- (5) the Sanctity of the Social Contract and of the Laws ; and
- (6) On the *negative* side, only intolerance 'which is a part of the cults we have rejected.'

These Dogmas are Principles of Islam.

Thus these principles of his Civil Religion—belief

21. Osborn, *Rousseau and Burke*, p. 151.

in God Who is Qadir and 'Aziz, 'Alim, Hakim, Baṣir, and Khabir, Rahmān and Rahīm, that is, Who is Powerful and Mighty, Knowing, Wise, Seeing, and Aware and Compassionate and Merciful; belief in the Hereafter and in the goodly reward of the just and the punishment of the evildoers, that is, belief in the Resurrection and in the Day of Judgment—are no other than the principles of Islām. This is why he wants them to be accepted 'without explanation or commentary' for if he would have tried to explain them, he could not have concealed the source of his inspiration and of his ideas. Further, if it be contended on behalf of Rousseau that Christianity also believes in the Kingdom of this world and the Kingdom of the Hereafter, and therefore he might have been thinking on Christian lines, my answer is that in Christianity the Crucification of Christ has absolved man of all sin and in this way the Son of God has atoned for the sins of men. Hence the punishment of the evildoers and the richly recompense of the just and the doers of good, *in this context*, has been taken from Islām and not from Christianity.

Rousseau is only Interpreting the Situation at Medina.

Not only this. There is no question of the Sanctity of the Social Contract and its Laws in Christianity. The Social Contract and its Laws are nothing but the

Islāmic Contract and the Laws of Islām (the Holy Qurān) on which it was based. As Rousseau seems to have read Islāmic history thoroughly for he refers to the successors of the Prophet and even to the sect of Ali,²² he fully knew how Hadrat Abū Bakr had shown (as we shall see in the coming pages) that the Islāmic Contract was *unbreakable* and that none of its 'laws' could be violated or ignored. Even on the 'negative' side of the dogmas, that is, *intolerance*, he seems to have the condition of Medīna in view. He makes it clear that, 'there is and can be no longer an exclusive national religion, tolerance should be given to all religions that tolerate others, so long as their dogmas contain nothing contrary to the duties of citizenship.' But who-ever dares to say: 'Outside the Church is no salvation, ought to be driven from the State, unless the State is the Church, and the prince the pontiff, The Prophet of Islām had granted toleration to the Jews and later on even to the Christians of Najrān, and the former had formed part of the State of Medīna, but when they began to create mischief, they were turned out not because of their religious belief but because they were constantly acting against the duties of citizenship. Rousseau even goes further and recognises the danger of having '*Munāfiqīn*' or Hypocrites and even apostates as fifth columnists within the body

22. Not only this. He even refers to the 'Huries' of Paradise in his *Confessions*, Vol. II, p. 48.

politic, for in the Islāmic State at Medina they were a constant source of danger, and a perennial source of weakness and treachery. This aspect he puts in these words, 'There is therefore a purely civil profession of faith of which the sovereign should fix the articles not exactly as religious dogmas, but as social sentiments without which a man cannot be a good citizen or a *faithful subject*. While it can compel no one to believe them, it can banish from the State whoever does not believe them—it can banish him, not for impiety, but as an anti-social being, incapable of truly loving the Laws and Justice, and of sacrificing, at need, *his life to his duty*. If anyone after publicly recognizing these dogmas *behaves as if he does not believe them*, let him be punished by death : he has committed the worst of all crimes that of lying before the Law. Miss Osborn has summarised the whole of this aspect thus : 'The State had no power over men's beliefs, he acknowledged, but it could banish those who refused to subscribe to the simple articles of faith he set forth not as unbelievers but as anti-social individuals, while he would inflict punishment of death *upon those who were treacherous enough to subscribe to those articles whilst in their hearts they mocked at them*'²³. Surely this is a true picture of the Hypocrites of whom the Holy Qur'an gives a full description for they not only mocked at Muslims but also were never ready to sacri-

23. Osborn, 151.

fice their lives for the cause. Rousseau then adds : 'Those who distinguish civil from theological intolerance are, to my mind, mistaken. The two forms are inseparable. It is impossible to live at peace with those we regard as damned ; to love them would be to hate God Who punishes them : we must positively either reclaim or torment them.'

Modern Writers accept the General Will but ignore his Legislator

After thus proving that the principles of the Civil Religion of Rousseau are nothing but the principles of Islām, I again revert to the proposition that Rousseau not only believed in God, he also believed in the Prophet of Islām who was his only Legislator, his only Lycurgus. Modern writers have caught hold of his General Will but they have wholly ignored his Legislator who was *to be the chief cause* of the 'enlightenment' of the General Will.

The Multitude by itself is Blind

Rousseau definitely tells us, as has been already pointed out, that a *blind multitude* does not know what it wills and it cannot itself carry out the difficult task of legislation. 'It must be got to see objects as they are, and sometimes as they ought to appear to it ; it must be shown the good road it is in search of secured from the seductive influences of individual

wills, taught to see times and spaces as a series, and made to weigh the attractions of the present and sensible advantages against the danger of distant and hidden evils. The individuals see the good they reject ; the public wills the good it does not see. *All stand in need of guidance. The former must be compelled to bring their wills into conformity with their reason ; the latter must be taught to know what it wills.* If that is done, *public enlightenment* leads to the union of understanding and will in the social body ; the parts are made to work exactly together, and the whole is raised to its highest power. *This makes a legislator necessary.'*

The Legislator enlightens the General Will

From this quotation, it is clear, that to Rousseau a Legislator is necessary for the enlightenment of the General Will and that Legislator, as we have already seen, was to be neither a Magistrate nor a Sovereign. He was to be a genius with an *extraordinary* position in the State. Such was the position of the Prophet of Arabia who was clearly in Rousseau's mind. Thus Rousseau's position comes to be that upto the time the Prophet was among his people, they had to be *enlightened* by him by virtue of his genius and his extraordinary position. After him, their own General Will will become the sovereign and the *Khulafā'* would only act as Magistrates whom the people would

elect *periodically*. They would be usually guided by the 'Law' of the Legislator, but if they had to fill in the details of their public life, the '*Ijmā'* of the *ummah* would count, that is, the consent of the community would decide. *In this way, his conception of the General Will comes to be easily reconciled with the extraordinary position of the Legislator or Lycurgus*—a fact which no modern critic has yet reconciled, and which only Miss Osborn seems to understand when she says, 'The Legislator was an 'extraordinary' person in the state. He had no official authority, but he was chosen because of his *genius and insight to elucidate the general will for the people and to lead them towards their own good* without becoming in any sense their master... (He was to be) a guiding spirit who could accomplish what Moses, Lycurgus, and Numa had done in the past. He looked back with unfeigned admiration to the way in which Moses had turned the wandering tribes into a free people. When they had not so much as a stone upon which to rest their heads, he had implanted the seeds of nationhood so successfully that the Hebrew people had remained a nation, in spite of being conquered and losing their country. Lycurgus had a different kind of problem. His work had been to transform the Spartans from a degraded and enslaved people into a noble race that gave its Laws to the whole of Greece... and the legislator, unable to appeal either to reason or force, had to resort to divine sanctions in order to 'constrain

by divine authority those whom human prudence could not move ²⁴.'

Now, let my readers themselves decide if these remarks of Miss Osborn are more true of the Prophet of Islām or of Moses and Lycurgus. In the recent past, the Prophet was the outstanding example of a legislator who had united a wandering tribe into a free people and who had transformed a degraded people into a noble race that gave Laws to the whole of Arabia and yet Miss Osborn also could not catch him as the real legislator of Rousseau, even though on page 179 she remarks 'The gifts possessed by the *prophet and the teacher* were required by those who would assume the duties of Rousseau's legislator'

The Contention that the Source of Rousseau's ideas might have been Plato

But, even after this comparison of the ideas of Rousseau with Islām, there may still be some who may contend that it is quite possible that the real source of Rousseau's inspiration might have been Plato and not Islām, for the organic idea of community and state, and the individual as an inseparable part of the whole he had borrowed from the Greek writer. To this my answer is that I do not deny that the *idea* of having a religion in the State as a cementing factor might have been taken from Plato, but the *content or*

24. Osborn, Page 175

material of Rousseau's Civil Religion is not Platonic : it is definitely Islāmic.

Articles of Religion in the Laws of Plato

The main articles of Platonic Religion in the 'Laws', as Barker²⁵ has summarized them, are the following :—

(1) The existence of God as a presiding and controlling mind of the universe, though sometimes he becomes polytheistic¹ also and speaks of gods even, and goes to the extent that the sun, the moon and the stars, as also years, months and seasons have each their moving mind and each their proper deity.

(2) The universal providence of God Who neither slumbers nor sleeps. He governs all things great and small and watches over all and rewards each player according to his part. Nothing escapes His watchfullness and no man can escape His Justice.

(3) The unswerving justice of God and no supplications and sacrifices can move Him from the way of Justice.

Thus, a true state can only exist on the foundations of such religious belief and through the acceptance of such articles of religion. Apart from such a belief, and if agnostic principles are allowed free play, the State becomes a chaos. 'As he drew

25. E. Barker, *Plato and his Predecessors*, p. 365.

towards the shades' observes Barker 'He (Plato) felt more and more the littleness of human beings, and the greatness of God, and the supreme need of a reverent faith'.²⁶ 'The state' continues the above writer 'must lay down the lines of a true belief about ultimate things, or in other words, *a State Religion*, and it must punish (or persecute) those who refuse to accept the creed'.²⁷

This persecution, according to Plato, must take three directions :²⁸

(1) Honest disbelievers, who are (but for their own belief) good men and citizens, are to be imprisoned for five years in the House of Reformation. If reformed after five years, they will live in peace, but if again convicted of unbelief, they will be put to death.

(2) Dishonest disbelievers who not only disbelieve in the religion of the state, but practise vain charms and incantations of their own for the sake of profit, to the ruin of individuals, families and cities, are to be imprisoned for life, in solitary confinement in a dungeon and when they are dead, their bodies will be cast away outside the frontiers.

(3) No private religion will be allowed. He would prohibit not only unbelief, but also private belief. He would not only command conformity to the order of

26. F. Barker, *Plato and his Predecessors*, p. 363

27. *Ibid.* p. 365.

28. *Ibid.* p. 366-367

public worship, but also forbid conventicles in which any sort of private worship is practised.

Thus the persecution recommended by Plato is secular (not clerical as it was in the Roman Catholic Church). It was based on disbelief in the State religion.

Rousseau's Religion is not the State Religion of Plato.

But the religion in Rousseau is not *State Religion* : it is not the religion of the citizen, in fact, he criticizes it. It is *Civil Religion* The state *cannot compel any one* to believe in it, though it can banish one who does not believe in it, not for impiety but for his anti-social attitude. As Barker puts it, 'Rousseau does not, like Plato, seek to establish a religious creed, but would assign to the community the power of fixing the articles of a purely civil profession of faith. These articles are to contain not dogmas of religion, but sentiments of sociality without which it is impossible for men to be good citizens Those who disbelieve are to be punished not because they are impious, but on the ground that they are unsociable. If any man, after having publicly recognized these articles conducts himself as if he disbelieved in them, he is to be punished with death.'

Comparison of the Religion of Plato, Rousseau and Islam

After thus stating the principles of Platonic religion

we can now examine in detail whether the spirit and content of Rousseau's religion is really that of Plato or of Islām.

In the first place, Plato speaks of gods and God in the same breath and even if we accept him monotheistic in his belief, the qualities and 'attributes of his God are not the qualities and attributes of Rousseau's God—Who is Mighty, Intelligent, Beneficent, possessed of foresight and providence—qualities and attributes which are fully true of the Islāmic God

Secondly, Rousseau speaks openly of the life to come and of this we find no reference in the 'articles' of Platonic religion.

Thirdly, Rousseau speaks of the happiness of the just and the punishment of the wicked after his idea 'of the life to come' but in Plato only the reward of each player according to his part is mentioned, and in Islām, the life of the Hereafter, the Day of Judgment and the punishment of the wicked and the happiness of the just are all connected ideas.

Fourthly, Rousseau talks of the Sanctity of the Social Contract which is *foreign to Plato* and is absent from his articles of faith, but which is most significant in Islām, for the Islāmic Contract is *unbreakable*.

Fifthly, in Rousseau no compulsion in religion is allowed while Plato stands for compulsion also. In this, respect too, Rousseau's attitude is more Islāmic than Platonic for Islām does not allow compulsion in reli-

gion.²⁹ Rousseau has definitely ignored the three aspects of persecution *as they have been stated by Plato.*

Lastly, the context of Civil Religion in Rousseau's Social Contract has a definite mention of the wisdom of Muhammad's system in linking religion with the state in such a way that the unity of the state is not destroyed.

Hence, to repeat once more, we cannot deny that Rousseau might have taken the idea of having a common religious belief for the strength of the state from Plato, and *even might have pondered over the articles of the religion of the latter*, but after comparison and contrast with the Islamic doctrines, he might have adopted the latter's articles as the principles of a sound Civil Religion in his state.

Hearnshaw's view of Rousseau's account as one of the Fall of Man and of Redemption

But even here my account of Rousseau's indebtedness to Islām does not end. Modern writers on Political Philosophy are telling us that Rousseau's works disclose nothing but an account of the Fall of Man and of Redemption. Among them Hearnshaw has especially taken up this Christian view point and has discussed in detail Rousseau's 'Secular Plan of

29. The Holy Qur'ān, 2 : 256.

Salvation.³⁰ His argument is based on the following points :

(1) The basal factor in all Rousseau's thought was the Bible and 'with the Bible as key let us seek to discern the main features of his system' for 'theology ...was the master principle of all his speculation'

(2) 'The Bible begins and the Bible ends in the picture of an ideal state, a Golden Age.' In the Old Testament we find an account of the Garden of Eden 'wherein the ancestors of humanity in primitive innocence live amid simple plenty a life of continual delight. On the other hand, in the New Testament, the evangelist has an apocalyptic vision of a heavenly city, the New Jerusalem, into which are gathered the hosts of the redeemed, and wherein once again—the sinful earth having been consumed with fire—purity and happiness reign supreme. *Paradise Lost* and *Paradise Regained*—that is the summary of the history of mankind according to the Scriptures.'

(3) Even when Rousseau '*abandoned* Christianity and became a deist, he continued to think in terms of *Paradise Lost* and *Paradise Regained*. 'His political system, in short, is the rationalized plan of Salvation.'

Critical Examination of Hearnshaw's View-point

Now if we critically examine this rationalized plan of Salvation, we find that it is the plan of Islām rather

30. Hearnshaw—*Some Great Idealists of the Christian Era*,
Art. 6.

than of Christianity that is in Rousseau's mind. We may grant that he had been taught theology in Geneva from his very infancy and *he was interested in theological studies*, but the net result of these studies was not a love of Christianity, but a hatred of it. Hearnshaw himself admits that he had already abandoned that religion by accepting *deism*. If Rousseau deals with *Paradise Lost*, it must be borne in mind, that the story of Adam, of the Garden of Eden, and of the Forbidden Tree and of the consequent Fall are equally true of Islām. Hence this fact, as it is common to Judaism, Christianity and Islām, does not mark out the real source of his thought. It is only in the idea of the *Paradise Regained* that the whole truth comes out. In Christianity it is by the Crucifixion of Christ that *Paradise has been regained* and Christ has atoned for the sins of his followers. Redemption thus *has already been achieved*. But this idea of Redemption does not fit in what Rousseau is writing. His problem is not of the past : it lies in the *future*, that is, how *Redemption is to be sought*. Thus *Salvation is to be achieved* not by the Crucifixion of Christ which has already occurred, but by the *Social Contract* which is the central theme of Rousseau's argument and which according to Prof. Hubert (as against Vaughan) 'is the very centre and key-stone to the whole structure of his political fabric.' Thus this Social Contract, *which is to be made in the future*, is the Contract of Islām and this is Rousseau's secular or rationalized

plan of Salvation. On this argument, thus, Paradise was not already regained, it *was to be regained* by means of the Social Contract which was to be the only means of 'Redemption' or 'Salvation.'

A Remark of Hearnshaw is more Islamic than Christian

Thus Hearnshaw's reading of the Social Contract as based on the Bible has no meaning and his statement which I note below is more true of Islām than of Christianity. Thus he says 'The Social Contract then—as M. Hubert rightly perceived, but as Prof. Vaughan failed to perceive—is central to Rousseau's scheme of social salvation, and is indispensable to it as is the Cross to Christianity. The process by which the Social Contract is concluded is, indeed, closely modelled upon that by which conversion is accomplished and salvation is attained in the Church. It involves a complete kenosis, or divestment of all *individual rights*, and regeneration of a member of a new communal personality. The old man with all his works is put off; the new man, the *moi commun* is put on; a novel creation is effected; a political miracle is performed.'

Critical Examination of Hearnshaw's Remark

Now this remark of Hearnshaw may be examined in the following way :—

(1) The Social Contract as a scheme of Salvation forms no part of Christianity. Hence there is no resem-

blance in saying that it is as necessary to Rousseau's scheme as 'Cross' is to Christianity. On the contrary, it is literally true to say that the Social Contract is as necessary to Rousseau's scheme of Salvation as it forms part of the Islāmic social and political structure, and is therefore a means of gaining Paradise.

(2) The process of Social Contract is certainly modelled on 'conversion' and 'salvation', but this process again is more true of Islāmic conversion than of Christian conversion, for in Christianity a man is *baptised* in the name of Father, Son and Holy Ghost while in Islām a *Contract* is made by saying :

(i) that 'there is no god but God and Muḥammad is His Prophet' ;

(ii) that 'I accept faith in Allah, His Angels, Books and Prophets ; and I believe in the Last Day, Preestimation (Qadr) of God whether for good or for evil and in the Life After Death (*i.e.*, Resurrection) ;'

(iii) that 'I accept faith in Allah with all His names and attributes and I accept all His commandments both by tongue and heart.'

Thus it is clear that *Rousseau who had become a deist and believed in the Last Day and Resurrection*, was thinking of the Islāmic Contract, and not of Christian Conversion.

(3) In this Contract, there is divestment of individual rights and there is regeneration as a member of a new communal personality without doubt, but this

too is true of Islām rather than of Christianity for every Muslim at once becomes an inseparable part of the whole and his community too becomes One Community of which the Lord is Allah.

(4) Lastly, the old man is certainly put off, and the new man is put on. A novel creation is effected: a political miracle is performed. This too is as literally true of Islāmic conversion today as it was yesterday, and we have already seen how the wild animals of the State of Nature had been changed into saints, *and how a political miracle had been performed*, a miracle which, as Bosworth Smith has stated, the Science of History is unable to explain.

Hearnshaw Ignores Islam as a Great Source of Rousseau's Inspiration

Thus, it is clear that the analogy of the Bible does not prove the source of Rousseau's Social Contract in that Book. On the contrary, it makes it clear that the real source of his inspiration was Islām and Islām only. Hence when Prof. Hearnshaw remarks that 'to the scheme of salvation as propounded by the pastors of Geneva he gradually added the political philosophy of Locke, the theory of Sovereignty of Hobbes, the *etatisme* of Plato, and the relativity of Montesquieu', we are led to observe that he missed the greatest source of Rousseau's inspiration, a source, which if accepted by modern scholars, would materially affect

the real meaning of Rousseau's political philosophy, for in that case the ideal of Rousseau's system would not be a democratic secular state of the modern type, but a state in which the democratic conception of divine government will prevail.

Essential Factors of Rousseau's Plan of Salvation

After thus examining the arguments of Hearnshaw, we may now briefly touch upon the 'essential factors' that he has stated of Rousseau's 'plan of salvation'. Thus

(i) The State of Nature is the *Garden of Eden* when man lived a simple, sinless, happy and a care free existence.

(ii) The *Fall* was due to the growth of intelligence and the rise of society, property and inequality.

(iii) The condition of *sin and misery* was the direct result of the *Fall* (and these he found in abundance in contemporary France—wretchedness, violence, crime, and disease all round).

(iv) The Fall having occurred and sin and miseries having increased, what was the method of *regeneration*? *Redemption was thus to be sought through the Social Contract.* Thus individualism and

selfishness were to go away and a life of communal harmony was to be inaugurated.³¹

(v) The result of the Contract was thus to be a New Community, a New Social State. If it was *to be a solution* of the existing miseries of civilization : it was also to be the means of ultimate *salvation*. Certainly, the Social Contract was *to be* a rationalized or secular plan of Redemption. Paradise Lost was thus *to be regained* by following the scheme of Social Contract for the permanent life of the Hereafter.

31. Hearnshaw himself puts the *gist* of Rousseau's argument in these words : 'Man is by nature good, he (Rousseau) said. In his primitive condition he was happy and innocent. The misery and corruption prevalent in the modern world are the consequences of the so called 'civilization'—that is to say, the increase of baneful knowledge and the excessive gratification of sense. To recover felicity man must return to the simple life.'

CHAPTER VII

EPILOGUE—THE TRUTHS IN THE ISLĀMIC CONTRACTS

Governmental Contract with Abu Bakr Siddiq

Now, after dealing in detail with Rousseau's obligation to Islām and the Islāmic State we would conclude our account of the Social Contract in Islām. After his Pilgrimage Declaration, the Prophet did not survive long. When he passed away, Ḥadrat Abū Bakr Siddīq was elected as '*Khalifa*' of the Prophet at Medina, and all the people made obeisance to him (that is, made a Governmental Contract with him), for the Social Contract of their common acceptance of Islām kept them united together into the Islāmic Community. As Muir puts it 'Forthwith the people crowded round, *and one by one*, they swore allegiance upon the hand of Abū Bakr,¹ and this homage was almost universal. He then addressed them thus 'Ye people ! now verily, I have become the chief over you, although I am not the best amongst you. If I do well support me ; If I err, then set me right. In truth and sincerity is faithfullness, and in falsehood perfidy. The weak and oppressed among you in my sight

1. Muir—(1894 Edition), p. 486 ; Abul Fidā, p. 874.

shall be strong, until I restore his right upto him, if he Lord will ; and the strong oppressor shall be weak until I wrest from him that which he hath taken... Wherefore, obey me, even as I shall obey the Lord and His Apostle. Whensoever I disobey them, obedience no longer binding on you."²

The New Khalifa both Representative and Responsible

Thus the address of the new Khalifa made it crystal clear that he was an elected chief of the nation and that he was *not merely representative* in the sense of Hobbes' sovereign, but was *also responsible* unlike him, and in complete conformity with Locke's interpretation of responsible government. Besides, as in Locke, *the right to revolution has been conceded* if the ruler goes against the commands of God and His Prophet. Lastly, the equality of Muslims and the sacredness of their life, liberty and property is to be maintained at all costs. *Justice is not the interest of the strong as the state also is not merely the necessity of the weak.* The strong and weak—lion and goat—were to be treated alike in a common life of piety, peace and progress.

The Expedition to Syria in spite of Internal Rebellion

After the Governmental Contract and his *Declar-*

2. Muir (1874 Edition), p. 486 ; Ibn Khaldūn, p. 274.

tion, Hadrat Abū Bakr had to send the expedition to Syria which the Prophet himself had arranged during his life. And this he did in spite of the '*great rebellion*' that was already occurring in the various tribes that had accepted Islām during the life time of the Prophet. After the Syrian expedition, the Khalifa turned his attention to this movement which is known in Islām as *Fitna-i-Irtidād* (Apostacy).

Return to the State of Nature

Even during the life time of the Prophet *three* pretenders had already appeared to the prophet-hood of God, and now after his death there was general rebellion among the tribes and clans *to go back to the State of Nature*. Thus only in the City State of Medina *the Social Contract remained in tact* after the death of the elected chief—the Prophet of God. The nation wide or the Commonwealth Contract seemed to be broken by all, for it seemed, *that the death of the ruler dissolved the state itself* (as we find in Hobbes). Thus, says Muir, 'the Lords of the desert rose up in rebellion, and during the first year of his Caliphate Abū Bakr had to struggle for the very existence of the faith,'³ and 'the Arabians, a people of a restless and turbulent disposition did not neglect the opportunity of rebelling, which they thought was

3. Muir, p. 492.

fairly well offered them by the death of Mohammad. Immediately taking up arms, they refused to pay the usual tribute, tithes and alms and no longer observed the rites and customs which had been imposed upon them by Mohammed.⁴ This Apostacy went to such a length that saving the clans of Mecca and Thaqif,⁵ nearly all the Arabs began to abjure Islām and thus break the Social Contract they had already made.

Sometimes Covenants Without the Sword are Mere Words

But Hadrat Abū Bakr was not cowed down by this *return* to the State of Nature. He at once sent forces to subdue the various rebel tribes, that is, the seceding units, and one by one they had to submit. Thus was the Arabian (Federal) State maintained in tact and peace was again established in a land which had almost gone back to darkness and error. These events clearly seemed to prove the *Hobbesian dictum* that, sometimes, '*Covenants without the sword are mere words.*'⁶ and yet Hadrat Abū Bakr, in his instructions to the Muslim Commanders and the letters to the apostate tribes made it clear that force was only to be used when definite proof was established

4. *Historians' History*, p. 146; Ibn Khaldūn p. 275.

5. Ibn Khaldūn gives details of apostate clans and tribes, D. 277-312.

6. Hobbes', *Leviathan*, (E. L.), Ch. XVII, p. 87.

that the tribe had broken the Contract with God, (that is, abjured or forsaken Islām).⁷

Society a Permanent Contract, and not a Partnership Agreement in a Low Concern

Thus Ḥadrat Abū Bakr seemed to say with Burke 'Society is indeed a contract. Subordinate contracts for objects of mere occasional interest may be dissolved at pleasure—but the state ought not to be considered as nothing better than a partnership agreement in a trade of pepper and coffee, calico or tobacco, or some other such low concern, to be taken up for a little temporary interest and to be dissolved by the fancy of the parties. It is to be looked on with other reverence; because it is not a partnership in things subservient only to the gross animal existence of a temporary and perishable nature. It is a partnership in all science, a partnership in all arts, a partnership in every virtue, and in all perfection...Each contract of each particular state is but a clause in the great primeval contract of eternal society, linking the lower with the higher nature, connecting the visible and the invisible world, according to a fixed compact sanctioned by the inviolable oath which holds all physical and all moral natures, each in their appointed place.'

7. For the purpose of instructions and letters to the apostate tribes, Ibn Khaldūn, pp. 287-292.

The Islamic Contract is Unbreakable

Hence the Contract of Islām which was *the Social Contract with God*—was no joke. It was to be maintained in all seriousness, for it was *unbreakable*. The establishment of the democratic divine government was not a mere temporary interest : it was the permanent abiding interest of man, and in maintaining it, Hadrat Abū Bakr was wholly successful.

Renewal of Governmental Contracts and the Continuance of the Institution

After the death of Hadrat Abū Bakr Siddīq, Hadrat 'Umar, 'Uthmān and 'Ali were successively elected *Khulāfa'* and thus the *governmental contracts* were always renewed at the ministry of a new *Khlaifa*, but the *reality of this popular election* faded away later on when under Umayyids the Muslim state became an Empire. The institution of 'bai'at' or 'contract' no doubt continued (and even now continues, as has already been stated, in the religious life of the Muslims) but its existence as a political *force* was no longer operative. It remained more or less a symbol of submission under the Muslim kings and remains now (because of the absence of the true Islāmic state) only as a moral pledge for good deeds and as nothing more.

Contract Theory not a Mere Fiction

To sum up, we can now easily assert that *the Con-*

tract theory is not a fiction: it is a historical reality and had its heyday of glory in the historic annals of Arabia.

Truths in the Islamic Contracts

As used in Islām, the Social Contract theory illustrates several truths of political philosophy. It has been asserted by modern writers that the Social Contract theory is more true as an explanation of *political obligation* than as an explanation of the *origin of the state*. The Islamic conception, in both theory and practice, has proved the truth of both. The Social Contract *does offer a correct explanation of the origin of the state* as we have already seen in Medina, and it also proves that '*consent*'⁸ is the real basis of *political obligation*.' But the Islamic practice does not maintain

8. 'One of the cardinal points of Orthodox Islam,' says Goldzher 'in every sphere of religion and law is the "general consent and practice of the whole body of believers" (*consensus ecclesiae*). The Arabic name for this mighty principle is *ijma'*. The general consent of the whole body of believers on certain points of faith and law is of binding force, no less than scripture and tradition. Nay, even the authority of all the primary sources of the Islamite religious system, as historically developed, derives its force from this consensus, which constitutes its principal title to recognition. The acceptance of such compilations of tradition as are received as Canonical and subsequently of the standard juridical codes, rests on no other legal basis than this general consent of the whole body of believers, by which they have been invested with binding authority'—*Historians' History*, pp. 353-4.

that 'consent' all alone is always sufficient as an explanation of the origin or maintenance of state. Even 'force' cannot be entirely neglected as the case of the breaking of the Commonwealth (or National) Contract has conclusively demonstrated.

Views of Bryce on Political Obligation

The Islamic conception, thus, fully justifies the statement of Bryce⁹ in which he says :

'The question which meets on the threshold of their enquiries all who have speculated on the nature of political society and the foundations of law is this—what is the force that brings and keeps men under governments, or, in other words, what is the ground of obedience?' To this question, Bryce himself suggests two answers :

1. There are those who believe that men obey because of the physical force which the state possesses. It is the might of the state that keeps them in order. Hence the foundations of political obedience are to be sought in the psychological element of *fear*. Hobbes and Bentham are two great representatives of this view.

2. There are again those who believe that men obey because they have consented to obey by their

9. Bryce—*Studies in History and Jurisprudence*,—Vol. II, Ch. IX, p. I.

own free will. Hence political obedience is not based on fear, but *on reason* and consent. Rousseau is the great representative of this school.

Compulsion and Agreement as Bases of State

Thus *compulsion and agreement*¹⁰ are the two bases of obedience and both of them are corroborated by the two great Islāmic Contracts—the Commonwealth or National Contract of the whole of Arabia and the City State Contract of Medina, for it is further manifest in these Islāmic Contracts that it is not merely the fear of the might of the state that keeps the people in order: it is *the fear of the retribution of God* also that keeps them as pious human beings. In this way, *God's fear and human consent* have created what we have already styled as the '*democratic conception of divine government*'.

Islamic State both Historical and Unhistorical

In the end, it will also not be out of place to add that the 'Islāmic State so '*constructed*' by means of Contracts seems to be a *pure work of art* rather than of slow growth 'from precedent to precedent.'

But, paradoxical though it may seem, it is both historical and unhistorical. It is *historical* in the

10. Vaughan—*Le contrat social*, (Longmans), p. LV for 'consent and compulsion.'

sense that it is a Kingdom of God re-established and His Laws sent through Abraham, Moses, and Jesus and other Prophets were re promulgated by Muhammad (Peace be on him !) who was the last Prophet of God. It is *unhistorical* because the customs, traditions and the practices of the age of ignorance were done away with and a new set of institutions established. It is to this aspect of things, that Bosworth Smith¹¹ has been forced to state in these terms :

"One of the most philosophical of historians has remarked that of all the revolutions which have had a permanent influence upon the *civil* history of mankind, none could so little be anticipated by human prudence as that effected by the religion of Arabia. And at first sight it must be confessed that the Science of History, if indeed there be such a science, is at a loss to find that sequence of cause and effect which it is the object and the test of all history, which is worthy of the name to trace out.'

11. Bosworth Smith—*Mohammed and Mohammedanism*-p. 89; also see page 12 for Islām as *historical*. To Borworth Smith, it is most *historical* of all religions because its detailed accounts have been *preserved in tradition and history*. To Christian writers, it is *historical* in the sense that some of the *so-called practices of Ancient Arabia* were retained in Islām (Hurgonje, pp. 58-59). To Muslims, it is *historical* because (as has been shown above) it is a continuation of the work of other Prophets of God—Abraham, Moses, Jesus etc.

The Islamic State is a Theocratic Democracy

Thus, to summarize, Islām was not merely a *Revolution* : it was *Revelation*. It was not mere *Solution* ; it was full and complete *Salvation*. Hence if the Islāmic State was the *work of man* in one sense, it was also the *work of God* in another. If it was a *democracy* in one sense : it was also a *theocracy* in another. In fine, as it was both *theocracy and democracy*, it was a *theocratic democracy* as well as a *democratic theocracy*, and, as has been already said, it not only represented a *democratic conception of divine government*, but also the *divinely ordained method of democratic government*. Religion and Politics could never be separated in Islām and to this day *Religion remains the basic foundation* of the Islāmic social and political structure.

INDEX

A

Abbe Maracci—43.
 'Abbās—87, 89, 90, 96.
 'Abdullah, bin Jad'ān—69.
 —bin Ubay, 121, 124, 125
 Abū, Tālib—68, 72, 74, 75.
 —Bakr, 71, 91, 121, 162,
 180, 182, 183, 184, 185.
 —Ayyūb, 93.
 —Mūsa, 114n.
 Abul, Fidā—68n, 70n, 73n,
 78n, 80n, 86n, 88n, 93n,
 105n, 120 & n., 126n,
 128n, 180n.
 —Hāshim, 97.
 Agreement 37, 69, 74, 90,
 107, 108, 134, 184, 188.
 —Of Socrates with the
 laws, 3, 4
 —His breaking by Socrates, 15.
 —Civil laws on, in Lyco-
 phron, 5.
 'Alī—105, 162, 185.
 —Muhammad, 8n, 9n.
 —Amir, 42, 112, 129n,
 131n, 133n, 134n, 135n.
 —His '*Spirit of Islam*', 40n,
 43n, 51n, 70n, 108n, 112n,
 122n, 137n.
 Adam—174.
 Al Ḥaladhūrī—His '*Futūhul
 Buldān*', 93n, 103n.
 Althusius—13n, 99 &n.

Ans—114n.
 Anṣār—104, 105 &n, 130,
 131.
 Anti-Monarchists—12.
 —Milton, Mariana, Buc-
 hanan and Althusius, as,—
 13n.
 Apostacy—182, 183.
 'Aqaba, Pledge of—78, 81,
 85, 87, 88, 120, 129.
 —Contract at, 97.
 Arabia—21, 22, 23, 24, 25,
 26, 27, 28, 30, 31, 32, 33,
 34, 35, 36, 38, 45, 55, 61,
 64, 68n, 71, 75, 79, 80,
 97, 101, 104, 115, 119,
 132, 133, 134, 135, 138,
 139, 143, 145, 167, 186,
 188, 189.
 —Study of, 2.
 —A case of Social Contract
 in, 2.
 —Prophet of, 165.
 Arnold—His '*Preaching
 of Islam*', 113n.
 Aristotle—On natural evo-
 lution of state, 5.
 —His '*Politics and Ethics*',
 6.
 —His distinction between
 the king and the tyrant,
 10.

Aus—83, 85, 86, 88, 89, 91, 102, 104, 107n.
—Banū, 78, 80, 86.

B

Bahrein—133, 134.
Bai'at—2, 88 & n, 100, 129, 130, 185.
Banū—Nađir, 79, 106, 123, 124.
—Damra, 122.
—Salīm, 123.
—Ghaṭfān, 123, 127.
—Qainūqā', 79, 106, 123 & n.
—Asad, 124.
—Liḥyān, 124.
—Khuza'a, 126, 128.
—Bakr, 126, 128.
—Hawāzin, 130.
—Thaqif, 130; clan of, 183.
—Ṭaif, 130.
—Sa'd, 67.
—Kināna, 68.
—Qais, 68.
—Hāshim, 69.
—Zuhra, 69.
—Ṭāim, 69.
—'Abdud Dār, 71.
—'Adi bin Ka'b, 71.
—Khazraj, 77, 78, 80, 86, 87.
—Quraiża, 79, 106, 125.
Barā'—87, 96.
Barker, E—His 'Political Thought of Plato and Aristotle.' 11n.

—His *From Spencer To Today*, 143n, 145n, 168 & n, 169 & n, 170.

—His 'Plato & his Predecessors', 168, 169.

Battle of—Badr, 105, 123.

—Bu'āth, 107n.

—Marathon, 123.

—Uhād, 142n.

Bentham—45n, 187.

Bilāl—120.

Brutus—99.

Bryce—187.

—His 'Studies in History and Jurisprudence', 187n.

Burke—45n, 146 & n, 160n, 184.

Bukhāri—On contract with 'Aṭā' & 'Aṭīyya, 88n.

—On Momin in relation to another Momin, 114n.

C

Cobban—His 'Rousseau and the Modern State', 137.

Code, of law—65, 66.

—of Ethics, 133.

—of Legislation, 152.

—Juridical, 186 n.

Coker—His 'Recent Political Thought,' 117 n.

Cole—141, 148 n.

—Community—65, 66, 85, 95, 96, 97, 98, 100, 102, 103, 104, 105 n, 107 n, 108, 109, 111, 112, 113,

- 114, 117, 118, 139, 141, 166, 167, 170, 177, 179, 180.
- Christianity—27, 28, 35, 44 n, 147, 152, 153, 154, 159, 161, 173, 174, 175, 176, 177.
- Idea of covenant in, 8
- Cicero—On natural law, equality and sovereignty, 48, 49, 50 n.
- Contract—1, 3, 10, 18, 19, 20, 21, 32, 67, 69, 73, 74, 75, 77, 78, 83, 84, 85, 88 & n, 89, 91, 94, 95, 96, 97, 98, 99 & n, 100, 101, 105 & n, 107, 111, 112, 113 & n, 114, 115, 117, 122, 123 n, 124, 126, 127, 129, 130, 134, 141, 144, 145 n, 156, 162, 174, 176, 179, 182, 184 185, 186, 188.
- Brief history of, 1.
- Unhistorical, 1.
- A fiction, 1.
- Unreal and imaginary, 1.
- As old as speculation, 1.
- As origin of state, 1, 2.
- As false theory, 1.
- An intellectual treat, 1.
- Essentials of, 2.
- Islāmic state founded on, 2.
- Of marriage in Islām, 2.
- A reality in Islām, 3.
- Its classical statement by, 3.
- Governmental, 5, 80, 96, 97, 98, 181, 185.
- Laws as, 6.
- In Old Testament, 7.
- Sir H. Maine's view of, 9.
- As the legacy of Middle Ages, 10.
- Manegold on breach of, 12.
- Theory, three stages of, 13.
- Of Brotherhood, 106.
- Of Islām, 174, 185.
- With God, 184.
- Primeval, 184.
- National or of Commonwealth, 187, 188.
- Of City State (of Medina), 188.
- Social, 1, 5, 13, 85, 97, 98, 99 & n, 100, 101, 115 n, 116, 119, 141, 145, 148 n, 156, 160, 161, 171, 172, 174, 175, 176, 177, 178, 179, 180, 182, 183, 185, 186, 188 n.
- Convention—3, 6, 8.
- Conventional—Antithesis between natural and, 13.
- Covenant—20, 77, 78, 79,

88 n, 89, 90, 94, 105,
 107 & n, 108, 109, 110,
 111, 123, 124, 125, 183.
 —Of Socrates with the
 laws, 5.
 —Of God in Old Testa-
 ment, 7.
 —Of David, 7.
 —Of Abraham with God, 7.
 —Of God with Israel, 8.
 —In New Testament, 8.
 —In Holy Qur'ān, 8.
 —Old and New, 8 n.
 —Of tyranny, 74.

D

Dārul Nadwa—90.
 Davenport—66.
 Democray, of Islām—2,
 190.
 Democratic theocracy—
 190.
 Divine Right of Kings—
 13 & n.
 —Of people, 13.
 Dunning—His '*History of
 Political Theories*', 48,
 49, 50 n.

E

Epicureans—6.
 Equality, Cicero on natur-
 al. 6.
 —In Islām, 137, 138.

F

Figgis—His '*Divine Right
 of Kings*', 13, n.
 Fouillee, On Contractual

Organism—117.

G

Ghassanides, 127.
 Gibbon—23, 33, 34 n, 55,
 94,
 —His '*Decline and Fall
 of the Roman Empire*',
 22 & n, 23 n, 95 n.
 Glaucon—On Compact
 theory, 5.
 God—20, 29, 38, 39 & n, 40
 & n, 42, 44, 46, 48, 49 &
 n, 50, 51, 52 & n, 53, 54
 & n, 55 n, 56, 59, 61 & n,
 62 & n, 63, 69, 72, 75,
 77 & n, 78, 79, 85, 86,
 87, 89, 90, 95, 100, 104,
 105, 107 & n, 108, 113,
 114, 117, 129, 134, 136,
 140, 141, 142 & n, 143
 n, 145, 146 & n, 147,
 150, 152, 153, 154, 155,
 156, 157, 159, 164, 168,
 169, 171, 176, 181, 182,
 184, 185, 188, 189, 190,
 —Covenant of, 7.
 —Son of, 8 n, 161.
 —Daughters of, Lāt Man-
 āt and Uzza, 28.
 —Kingdom of, 83, 94, 95,
 '189.
 —Belief in, 161.
 —As Qadīr, 'Azīz 'Alīm,
 Ḥakīm, Baṣīr, Ḫabīr
 Rahmān, Rahīm, 161.

Goldziher—45 n, 46 n, 186 n.

Government, Divine—146, 185.

—Democratic conception of divine, 134, 143, 178, 188, 190.

Greece—20, 166.

—Systematic thinking begins in, 3.

—Ancient, 3, 13.

—Contract in, 3.

Green—147.

H

Hadarmaut—133.

Haider, Aulād—His 'Us-watul Rasūl', 68 n.

Haj—76, 77, 86.

Halima—67.

Hamza—73.

Harbal Fijār—68.

Hāshim—68.

Hell, Dr—23 & n.

—His 'Arabian civilization' 2, 3, 4, 112 & n, 123 n.

Heraclius, Byzantine Emperor—127.

Hearnshaw—172, 173 n, 174, 175, 177, 178, 179 n.

Hijazite—65.

Hijra—134

Hijrat—91, 120.

Hilf al Fudūl—68, 74.

Himayarite—65.

Hira, Cave of—71.

Historical—3, 17, 18, 19, 20, 32, 35, 101, 115, 188, 189.

—Social Contract not, in any sense, 1.

—Meaning of, 1.

History—15, 19, 20, 32, 35, 36, 45 n, 46 n, 66, 104, 108, 111, 173, 189.

—Of Social Contract, 1.

—Judgment of, 1, 2.

—Study of, 2.

—Of mankind, 3.

—'Historians of the world', 25 n, 27 n, 81 n, 82 n, 86 n, 88 n, 92 n, 103 n, 109 n, 183 n, 186 n.

—Science of, 177, 189.

Hobbes—3, 13, 19, 32, 33 & n, 34 & n, 35, 36 & n, 37 & n, 39 & n, 41 n, 46 n, 49 n, 51, 52 n, 53 & n, 54 n, 61 n, 70, 77, 81, 96, 99, 115, 119, 141 & n, 142 & n, 154, 169, 181, 182, 183 n, 187.

—On God speaking to Abraham by Baptisme, 7.

—On New Testament, 8.

—On the reality of the State of Nature, 14.

—His account of the State of Nature, 31.

—Sovereignty of, 177.

Hobhouse—142.

Hubert—174, 175.

Hunain, Battle of, 130, 132, 133.

Hudaibya—126, 128

Hurgronje—43 & n, 65 & n, 189 n.

I

Ibn—Athir, 129 n.

—Hishām, 29 n, 68 n, 69 & n, 70 n, 71 n, 72 n, 73 n, 75 n, 78 n, 85 n, 86 n, 88 n, 91 n, 93 n, 104 n, 105 n, 108 & n, 120 n, 122 n, 123 n, 126 n, 128 n, 130 n, 131 n, 135 n, 142 n.

—Khaldūn, 24, 27 n, 30 n, 72 n, 73 n, 76 n, 85 n, 86 n, 88 n, 91 n, 93 n, 103 n, 105 n, 108 n, 122 n, 126 n, 135 n, 181 n, 183 n, 184 n.—His *History*, 25n.—On names of Hanifs, 29 n.

—Sa'd, 68 & n, 69 n, 70 n.

Ijmā'—166, 186 n.

India—2.

Individualism—35 n.

Ishmael, child of—150, 151.

Islām—38, 39 & n, 41 & n, 42, 43, 44, 47, 48, 50, 52 & n, 54, 55 & n, 56, 57, 59, 60, 62 & n, 63, 64, 65, 66, 72, 73, 76, 77, 78, 79, 83, 84,

85, 86, 87, 88 & n, 91, 95, 100, 101, 102, 106, 108 n, 113, 115, 117, 132, 134, 135, 137, 139, 140, 141, 142 & n, 143, 147, 149, 155, 159, 161, 167, 171, 172, 173, 174, 175, 176, 177, 180, 182, 183, 184, 186, 189, 190.

—Democracy of, 2.

—Marriage in, 2.

—Reality of contract in, 3

—Laws of, 21, 94, 162.

—Light of, 71, 94.

—Principles of, 161, 164.

—Prophet of, 162, 164.

—Contract of, 174, 185.

Islāmic—2, 38, 48, 49, 55 n, 134, 137, 141, 143, 144, 145, 147, 156, 188, 159, 171, 176, 180, 186, 187, 190.

—State, 2, 163, 180, 185, 188, 190.

—Political structure, 2.

—Peoples, 2.

—Political edifice of, 2.

—Social and religious life, 3.

—Origin of state, 3.

—History, 162.

—Contract, 162, 171, 176, 188.

—God, 171.

—Doctrines, 172.

—Conversion, 176, 177.

J

Jāhiliyat—21, 136.

Jews—43, 57, 79, 80, 86, 89, 97, 106, 107 & n., 109, 111, 112, 113, 121, 123, 124, 125, 127, 162.

—Covenant of God with, 7.

—Branches of, Awf, Najjar, Harith, Jashm, Thaliba, Ans, 110.

Joad—116 n.

John of Salisbury—On tyrannicide, 11.

Judaism, 13, 27, 28, 35.

K

Ka'ba—70, 73.

Kadhhdhāb, Mussailima—150.

Kant—1, 115, 415 n.

Khadija—70, 71, 74.

Khaiber—124, 127.

Khalifa—180, 181, 182.

Khazraj—83, 85, 86, 88, 89, 102, 104, 107 n.

Kesrā—127.

Khulafa'—165, 185.

L

Languet—99.

Laws—4, 34, 39n, 44, 45, 51, 52, 59, 65, 82, 148, 150, 153, 156, 159, 160, 189.

—Threefold wrong to them by Socrates, 1.

—Socrates' agreement with, 3.

—Natural in Roman lawyers, 6.

—Ulpian on, 6.

—Of Nature, 6.

—Universal, 7.

—Positive, 19.

—Of Islām, 21, 94, 162.

—Divine, 29.

—Of Peace, 38, 67, 111.

—Of Sword, 67.

—Of Reason, 67.

—Of God, 143.

—Of Nature, 6, 13, 27, 36, 37, 38n, 40, 41, 44n, 47, 50, 64, 76, 79, 83, 84, 94, 95, 119, 161, 162, 163, 166, 167.

Leviathan, Hobbes'—8n, 14n, 19, 33n, 36 &n, 37n, 41n, 49n, 52n, 55n, 61n, 77n, 141 & n, 142n, 183n.

Liberty—13n, 32, 33, 61, 64, 81, 85, 107, 137, 139, 141, 144, 145, 147, 181.

Locke—3, 13, 18, 19, 36, 38, 82n, 83, 84, 85, 95, 97, 98, 99 &n, 102, 106, 115, 116, 181.

—On State of Nature, 14.

—On voluntary government, 15.

—His '*Civil Government*',

15n.
—Philosophy of, 177.
Lord—His '*Principles of Potitics*', 10n, 54n, 99n.
Lycophron—On Civil law and government, 5.
Lycurgus—151, 164, 166, 167.

M

Machiavelli—150.
Mahājirin—104, 105 &n.
Maine, (Sir Henry)—On contract in feudal communities—9.
—His '*Ancient Law*', 10n.
Manegold—On Limited Monarchy, 12.
Margoliouth—His '*Mohammedanism*', 26n, 39n, 62n, 69n, 83n, 103 &n, 120n, 121n, 122n, 138, 139n.
Masāwāt—137.
Mecca—67, 68, 69, 73, 76, 77, 85, 86, 88n, 90, 94, 99, 104, 105, 109, 110, 119, 121, 122, 123, 124, 125, 126, 128, 129, 130, 132, 135, 183.
Medina—77, 78, 79, 80, 81, 82 &n, 83, 84, 85, 86, 90, 94, 96, 97, 98, 99, 100, 101, 102, 104, 106, 107, 108 &n, 109, 110, 111, 112, 113, 114, 119, 121, 122, 123, 124, 125, 126, 127, 132, 133, 136, 162, 163, 180, 182, 186, 188.
—The two tribes of—78.
—State of Nature in—79.
—Ratification of contract by people of, 88.
—Prophet's Hijrat to—91.
—Reception of Prophet in—92.
—Conquest of by Al-Qurān, 93.
—City State of 95, 97, 111, 112.
—Making of Civil Society in, 102.
—Building of Mosque in, 103.
—Merriam—His '*History of the Theory of Sovereignty*', 13 n.
Milton—99 & n.
Monarchy—2, 143, 144.
—Limited, 12.
Montesquieu—117.
Mornay—100.
Mudarite—65.
Muhammad (Mahomet, Mohammed)—22, 26, 32, 39 n, 47, 55 & n, 56, 67, 73, 75, 83, 87, 88 n, 89, 94, 102, 111, 112, 113, 122, 124, 132, 156, 159, 172, 176, 183, 189.
—As threefold founder of a nation, of an empire and

of a religion, 66.

—His standing Miracle, 66.

—As a spectacle of sublimity, 76.

—Anarchy in Medina before coming of, 81.

—Sends Muṣ'ab to Medina, 86.

—Converts in Medina flock to, 91.

—Reception of by people of Medina, 92.

—Establishes the first Arabic Community, 103.

—Covenant of (with Jews), 108.

—As King of Hedjas, 123.

—His treatment on the conquest of Mecca, 128.

—Rousseau's approval of the system of, 155.

Muir, Sir William, 24 & n, 26, 27, 28 & n, 73 & n, 76 & n, 80 n, 81 & n, 85 n, 86 & n, 92 & n, 93 n, 104 n, 105 n, 108 n, 129 n, 130 & n, 132, 133 n, 134 n, 135 n, 180 & n, 181 n, 182 & n.

—His 'Life of Mahomet', 24n.

Munāfiqin—124, 125, 162.

Murid—2.

Muṣ'ab—78, 85, 86 & n, 100.

Muta—127.

Muwākhāt—105.

N

Najrān—Christians of, 162.

Nature—40, 42, 43, 44, 49, 50, 51, 53, 54 & n, 55n, 56, 57, 59, 62, 63, 65, 67, 71, 95, 142n, 146n, 147, 148, 149, 151.

—Laws of, 2, 6, 13, 17n, 19, 37, 38 & n, 39n, 40, 41, 47, 52, 64, 82, 94, 95, 119.

—Light of, 2, 71.

—Antithesis of, 3, 6.

—State of, 2, 13, 14, 15, 16, 17, 18, 19, 20, 21, 31, 32, 33, 35, 36, 44n, 79, 81, 83, 84, 85, 94, 95, 96, 99n, 102, 119, 135, 136, 137, 140, 141, 144, 147, 178, 182.

Natural—27, 43, 48, 49n, 50.

—Antithesis between conventional and, 13.

—Law, 18.

—Rights, 100.

—Liberty 144.

Nevinson—His '*Growth of Freedom*', 19n & 35.

Nicholson—His '*Literary History of Arabia*'—73n, 112 & n, 123.

Noldeke—24 & n, 26, 28n.

Numa—116.

O

Oppenheimer—35 &n.

Osborn, Miss Annie Marion, 145, 146n, 163 &n, 166, 167 &n.

—Her '*Rousseau & Burke*', 146, 160n.**P**Parvaiz, Khusru. —127.

Pir—2.

Plato—167, 168n 169 &n, 170, 171, 172, 177.

—Articles of religion in the 'Laws' of, 168.

—His criticism of conventional basis of society, 5.

—His '*Republic*'—5, 6.

—His distinction between the King and the Tyrant, 10.

Poole—His '*Studies in Muhammedanism*', 62n.

Prophet—67, 69, 70, 71, 72, 74, 75, 76, 77, 78, 83, 85, 86, 87, 88, 89, 90, 91, 92, 93, 95, 96, 97, 100, 102, 103, 104, 105, 106, 107, 108, 110, 111, 113, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134 135, 136, 138, 140, 142n, 147, 156, 167, 176, 180,

181, 182.

—of Islām, 21, 42, 50, 55,

57, 143, 149, 155, 167.

—Of Nature, 42, 43-44.

—Of Monotheism, 42.

—As last 156.

—As Amin, 70.

—Of Israel, 76.

—A New, 83.

—Of Arabia, 165.

—Of God, 182 & 189.

Q

Qubā—91.

Quraīṣa—80.

Quraish—68, 70, 71, 72, 73, 74, 75, 76, 90, 108, 120, 121, 122, 124, 126, 128, 129.

Qurān—25, 26, 30n, 31, 43, 44, 45, 46, 47, 49n, 51, 53, 55, 56, 57, 58, 60, 63, 65, 66, 78, 85, 86, 87, 93, 106, 107n, 124, 137, 144, 156, 162, 163, 172n.

—On Contracts of God with Israel, 8.

—On covenant in Christianity, 8.

—By Muḥammed 'Ali, 8n, 9n.

R

Rauḍatūs Safā—73n, 74n, 75n, 85n, 86n, 89 &n, 93n, 97n, 103n, 105n, 106n.

Reland—43.
 Rights—37, 50, 136, 140, 141, 147, 151.
 Roman, Lawyers—6.
 —Ideas, 7.
 —Christianity, 152.
 —Catholicism, 156, 158.
 —Church, 170.
 Rome, 'Ancient'—13, 15, 20.
 Rousseau—3, 13, 18, 36, 38n, 44n, 115&n, 138, 141, 142, 143, 144, 145, 146 &n, 147, 149, 150, 151, 152, 154, 155, 156 & n, 157, 158 & n, 159, 160 n, 161, 162, 164, 165, 167, 168, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179 n, 180, 188.
 —'Social Contract' of by Cole, 10 n.
 His account of the State of Nature, 16.
 —His 'Dissertation on the Origin and Foundation of the inequality of mankind,' 16 n.
 —Resemblances of Islāmic first principles with ideas of, 141.
 —Deeper meaning in 'Social Contract' of, 145.
 —His approval of Muhammad's system, 155.
 —As a Muslim at heart 155.
 —Dogmas of his Civil Religion, 160.
 —His Dogmas as Principles of Islām, 160, 161.
 —Plato as source of ideas of, 167.
 —Comparison of the religion of Plato, of Islām and of, 171.
 —Hearnshaw's view of account of, 172.

S

Sabine—His '*History of Political Theory*' 49 n.
 Sa'd, bin Zarārah, 89.
 —Bin 'Abāda, 120.
 Safā—Hill of, 129.
 Shammās bin Qais—187 n.
 Shiblī—His *Strat-un-Nabi*, 142 n.
 Smith, Robertson—His '*Kinship and Marriage*', 30 & n.
 —Bosworth, His 'Mohammed and 'Mohammedanism,' 55 n, 57 & n, 62 n, 66 & n, 177, 189 & n.
 Society, Civil, 13, 15, 19, 20, 21, 33, 34, 64, 66, 67, 77, 84, 94, 99 n, 101, 102, 116, 119, 137, 148, 153, 154, 178, 184, 187.

<ul style="list-style-type: none"> —Conventional basis of, 5. —Natural in Cicero—6. Socrates—On agreement with the laws—3. —His arguments on escaping from prison, 4. Sophists—as Glaucon, Lycophron, Thrasymachus, 5. Spinoza—18, 115. St. Augustine—on King and law, 11, 12. St. Thomas Aquinas—48. State—51, 55 n, 67, 79, 80, 95, 99 n, 100, 101, 113 n, 114, 117, 134, 137, 138, 143, 144, 146, 147, 149, 153, 154, 155, 159, 160, 162, 163, 166, 168, 169, 170, 172, 173, 178, 181, 183, 184, 187, 188. —Origin of, 1, 13, 186. —Islamic, 2, 180, 185, 188. —As conventional, 13, 6. —Its natural evolution in Aristotle, 5. —Jewish, origin of, 7. —Civil, 17, 18, 21, 84. —Of War, 32, 70, 94, 95, 135. —Of ignorance, 85, 107 n. 	<ul style="list-style-type: none"> —Of peace, 110. —City, 111, 112, 114, 119, 137, 138, 141, 182, 188. —Social, 179. —Of Nature, 13, 14, 15, 16, 17, 18, 19, 20, 21, 31, 32, 33, 35, 36, 81, 82 & n, 83, 84, 94, 95, 96, 99 n, 102, 119, 135, 136, 137, 140, 141, 144, 165, 167, 177, 178, 182, 183
--	---

T

- Tabari—70, 71 n, 87 n, 97 n, 129, 130 n.
- Tabūk—133.
- Tafsīr, Muwahibur Rahmān, 88 n.
- Tālīf—76.
- Taim, family of—68.
- Testament, Old—7, 8 n, 48, 73.
- New, 8, 48, 73.
- Thaur—Cave of, 91, 120.
- Theory—13 n, 18, 39, 65, 99, 113 n, 114, 117, 123 n, 138, 186
- Of Social contract—1, 3, 10, 116 186.
- Of Sovereignty, 177.
- Of Contract in Greece—3.
- Compact, 5.
- Force, 5.
- Of limited monarchy, 11.

—3 Stages in Contract, 13.
Thrasymachus—Force Theory of, 5.
 Theocracy—190.
 —Democratic 190.

U

‘Uhad—124.
 Ukhwat, 137.
Ulpian—On natural liberty and ‘equality, 6.
 ‘Umān—133, 134.
 ‘Umar—73, 129, 130, 185.
 Umayyids—185.
 Ummat—166.
Uswatul Rasūl—69 n.
Usdul Ghābah—68 n, 72 n.
 ‘Uthmān—71, 105, 185.

V

Vaughan—18 n, 19 n, 21 & n, 37 & n, 38 n, 39 & n, 84 & n, 98, 99 n, 113 n, 115, 116 & n, 141, 174, 175, 188.
 —His ‘*Studies in Political Philosophy*’—7 n, & 17 n.
 —Criticism of State of Nature—16.
 —His ‘*Du Contract Social*’—13 n, 113 n, 188 n.
 —On State of Nature in Spinoza, Rousseau, Locke and Hobbes, 17, 18, 19.
 —On Jewish state, 7.
 Vernes—157.
Vindicia Contra Tyrannos—99.

Von Kremer—His ‘*Contributions to the History of Islamic Civilisation*’, 27 & n, 28 n, 30 & n, 56 & n.

W

Weil, Dr—, ‘*His History of Islamic Peoples*’, 26 & n.
 Wellhausen—23 & n, 25, 27, 81, 82, 103 & n, 108.
 Willoughby—on Aristotle’s view against Sophists—5 & 6 n.
 —His ‘*Ethical basis of Political Authority*’, 6 n, 99 n, 143 n.

Y

Yemāma—134.
 Yemen—133, 134.

Z

Zaid—71.
 Zaidān—65 & n, 105 n.
 Zubair bin ‘Abdul Muṭṭalib—69.
 Zuhra—family of, 68.